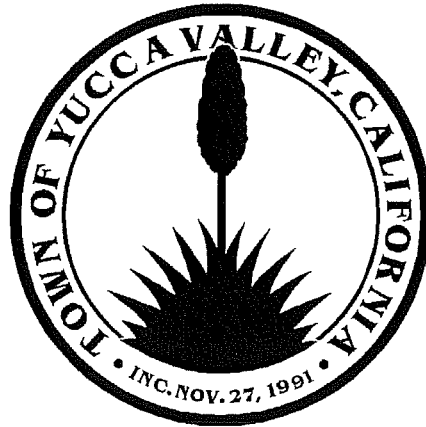


TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING



*The Mission of the Town of Yucca Valley is to
provide a government that is responsive to its citizens
to ensure a safe and secure environment
while maintaining the highest quality of life.*

**TUESDAY, NOVEMBER 6, 2012
CLOSED SESSION:
YUCCA VALLEY TOWN HALL CONFERENCE ROOM
57090 - 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284**

**TOWN COUNCIL: 6:00 p.m.
YUCCA VALLEY COMMUNITY CENTER
YUCCA ROOM
57090 - 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284**

* * * *

TOWN COUNCIL
Dawn Rowe, Mayor
Merl Abel, Mayor Pro Tem Member
George Huntington, Council Member
Robert Lombardo, Council Member

* * * *

**TOWN ADMINISTRATIVE OFFICE:
760-369-7207
www.yucca-valley.org**

**AGENDA
MEETING OF THE
TOWN OF YUCCA VALLEY COUNCIL
TUESDAY, NOVEMBER 6, 2012
6:00 P.M.**

The Town of Yucca Valley complies with the Americans with Disabilities Act of 1990. If you require special assistance to attend or participate in this meeting, please call the Town Clerk's Office at 760-369-7209 at least 48 hours prior to the meeting.

An agenda packet for the meeting is available for public view in the Town Hall lobby and on the Town's website, www.yucca-valley.org, prior to the Council meeting. Any materials submitted to the Agency after distribution of the agenda packet will be available for public review in the Town Clerk's Office during normal business hours and will be available for review at the Town Council meeting. Such documents are also available on the Town's website subject to staff's ability to post the documents before the meeting. For more information on an agenda item or the agenda process, please contact the Town Clerk's office at 760-369-7209 ext. 226.

If you wish to comment on any subject on the agenda, or any subject not on the agenda during public comments, please fill out a card and give it to the Town Clerk. The Mayor/Chair will recognize you at the appropriate time. Comment time is limited to 3 minutes.

(WHERE APPROPRIATE OR DEEMED NECESSARY, ACTION MAY BE TAKEN ON ANY ITEM LISTED IN THE AGENDA)

OPENING CEREMONIES

CALL TO ORDER

ROLL CALL: Council Members Abel, Huntington, Lombardo, and Mayor Rowe.

PLEDGE OF ALLEGIANCE

INVOCATION

Led by Chaplain Mike Kelliher, Joshua Springs Calvary Chapel

PRESENTATIONS, INTRODUCTIONS, RECOGNITIONS

1. Introduce Sharon Cisneros, Senior Accountant.

APPROVAL OF AGENDA

Action: Move _____ 2nd _____ Vote _____

CONSENT AGENDA

- 1-6 2. Minutes of the Town Council Meeting of October 30, 2012.

Recommendation: Approve the minutes as presented.

- 3. Waive further reading of all ordinances (if any in the agenda) and read by title only.

Recommendation: Waive further reading of all ordinances and read by title only.

- 7-34 4. Black Lava Butte Wind Project, Resolution of Opposition

Recommendation:

- a. Adopt the Resolution; or
- b. Direct staff to modify the Resolution and return it to the Town Council for Action

All items listed on the consent calendar are considered to be routine matters or are considered formal documents covering previous Town Council instruction. The items listed on the consent calendar may be enacted by one motion and a second. There will be no separate discussion of the consent calendar items unless a member of the Town Council or Town Staff requests discussion on specific consent calendar items at the beginning of the meeting. Public requests to comment on consent calendar items should be filed with the Town Clerk/Deputy Town Clerk before the consent calendar is called.

Recommendation: Adopt Consent Agenda (items 2-5)(roll call vote)

Action: Move _____ 2nd _____ Vote _____

DEPARTMENT REPORTS

- 35-147 5. Replacement Animal Shelter, ACJPA Project No. 1, Approve Bid Process, Contract Award, Town Construction Management/Specialized Inspections.

Staff Report

Recommendation:

- 1. Review and approve the JPA’s competitive bid process for the construction of the Animal Shelter, including, but not limited to the proposed consent to withdrawal of bid by R.C. Construction Services, Inc., based upon the findings further described below;**
 - A. R.C. Construction Services, Inc., made a clerical mistake establishing an incorrect bid amount for Metal Buildings;**
 - B. R.C. Construction Services, Inc. gave the ACJPA written notice within five working days, excluding Saturdays, Sundays, and state holidays, after the opening of the bids of the mistake, and specified in the letter in detail how the clerical mistake occurred by failure to include an additional \$400,000 in metal building costs.**
 - C. The clerical mistake made by R.C. Construction Services, Inc., is materially different than R.C. Construction Services, Inc. intended by the failure to include \$400,000 in Metal Buildings costs that were not included in the bid item due to the clerical mistake;**
 - D. The clerical mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work, or in reading the plans and specifications.**
- 2. Approve Second Amendment to the ACJPA Agreement that increases Total Project Cost called out in the ACJPA Agreement from \$3.5 to \$3.75 million; and**
- 3. Approve Second Amendment to the ACJPA Agreement that defines:**
 - a. Attachment A - Proposed Work Plan**
 - b. Attachment B – Joint Funded Animal Shelter Project**
 - c. Attachment C – Operational Agreement**
 - d. Attachment D – Joint Ownership agreement**
- 4. Approve the JPA’s proposed award of the “Base Bid” construction contract to Facility Builders and Erectors, Inc., in the amount of \$2,849,400.00, and the “Bid Alternate B” construction contract in the amount of \$31,800.00; and**
- 5. Approve the JPA’s proposed authorization of a Construction Contingency in the amount of \$391,294 (14% of construction costs); and**

6. **Accept Town staff's proposal for Construction Management and Specialized Inspection Services; and**
7. **Approve the JPA's proposal that unused Construction Contingency be budgeted against one-time start-up costs for the replacement animal shelter. Such expenditure will be brought to the JPA Board for prior approval; and**
8. **Approve Co-Ownership Agreement in form as presented in the JPA Second Amendment (Attachment D); Authorize the Town Manager and Town Attorney to make non-substantive modifications to finalize such agreement and its Exhibits to final form; and authorize the Mayor to execute the final agreement on behalf of the Town.**
9. **Approve the fifth amendment to Contract (No. 08-1152) between the County of San Bernardino and the Town of Yucca Valley for providing Animal Shelter Services for FY 2013/14**

Action: Move _____ 2nd _____ Vote _____.

FUTURE AGENDA ITEMS

PUBLIC COMMENTS

In order to assist in the orderly and timely conduct of the meeting, the Council takes this time to consider your comments on items of concern which are on the Closed Session or not on the agenda. When you are called to speak, please state your name and community of residence. Notify the Mayor if you wish to be on or off the camera. Please limit your comments to three (3) minutes or less. Inappropriate behavior which disrupts, disturbs or otherwise impedes the orderly conduct of the meeting will result in forfeiture of your public comment privileges. The Town Council is prohibited by State law from taking action or discussing items not included on the printed agenda.

STAFF REPORTS AND COMMENTS

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

6. Council Member Huntington
7. Council Member Lombardo
8. Mayor Pro Tem Abel

9. Mayor Rowe

ANNOUNCEMENTS

Time, date and place for the next Town Council meeting.

6:00 p.m., Tuesday, November 20, 2012, Yucca Valley Community Center Yucca Room

CLOSING ANNOUNCEMENTS

ADJOURNMENT

**TOWN OF YUCCA VALLEY
SPECIAL TOWN COUNCIL MEETING MINUTES
OCTOBER 30, 2012**

OPENING CEREMONIES

Mayor Rowe called the meeting to order at 6:03 p.m.

Council Members Present: Abel, Huntington, Lombardo, and Mayor Rowe.

Staff Present: Town Manager Nuaimi, Deputy Town Manager Stueckle,
Community Services Director Schooler, Administrative Services
Director Yakimow, Police Capt. Boswell, and Town Clerk
Anderson

Capt. Boswell introduced Lt. Brad Toms.

PLEDGE OF ALLEGIANCE

Led by Lt. Toms

INVOCATION

Led by Pastor Chris Begnaud, Joshua Springs Calvary Chapel

PRESENTATIONS, INTRODUCTIONS, RECOGNITIONS

1. Presentation to Kathy Ainsworth.

Tile Plaque presented to Senior Accountant Kathy Ainsworth in honor of her retirement.

AGENCY REPORTS

Chamber of Commerce

2. Monthly Chamber of Commerce Report for September 2012

Jennifer Collins, Chamber President, gave the monthly statistical Chamber of Commerce Report and introduced the committee putting on the Gourd Festival, November 3-4, 2012.

Hi Desert Water District

3. Water and Wastewater Project Updates.

Sarann Graham, Hi Desert Water District President, gave the monthly wastewater project update, noting the wastewater treatment plant will not have open beds that discharge odors.

APPROVAL OF AGENDA

Council Member Huntington moved to approve the agenda. Council Member Lombardo seconded. Motion carried 4-0.

CONSENT AGENDA

4. **Approve**, Minutes of the Regular Town Council Meeting of October 2, 2012, as presented.
5. **Waive**, further reading of all ordinances and read by title only.
6. **Receive and file**, Monthly Statistical Fire Department Report for September 2012
7. **Receive and file**, report outlining the Winter 2012-13 programs and events to be organized and conducted by the Community Services Department.
8. **Receive and file**, AB 1234 Reporting Requirement Schedule for the month of September, 2012.
9. **Adopt**, Resolution No. 12-40 updating the Town's authorized signatories at the Local Agency Investment Fund (LAIF)

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY,
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AUTHORIZING
DEPOSIT AND WITHDRAWAL IN THE STATE LOCAL AGENCY INVESTMENT
FUND

10. **Rescind**, temporary suspension of enforcement of the Town's leash law during certain morning hours at Machris Park, and direct staff to immediately resume normal enforcement activities.
11. **Receive and file**, the Treasurer's Report for the first quarter of FY 2012-13.

- 12. **Receive and file**, FY 2012-13 First Quarter Budget Report.
- 13. **Adopt**, Resolution No. 12-41, approving the 2011-12 Purchase Order Encumbrances and Project Carryovers as identified.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING THE FISCAL YEAR 2012-13 ADOPTED BUDGET

- 14. **Ratify**, Warrant Register total of \$267,632.81 for checks dated October 4, 2012. Ratify Payroll Registers total of \$318,506.28 dated September 28, 2012 and October 12, 2012.

Council Member Huntington moved to adopt Consent Agenda Items 4-14. Council Member Lombardo seconded. Motion carried 4-0.

AYES: Council Member Abel, Huntington, Lombardo, and Mayor Rowe
NOES: None
ABSTAIN: None
ABSENT: None

PUBLIC HEARINGS

- 15. **Street Vacation SV-01-12, Southern California Gas Company, Approximately twelve (12') feet by three hundred thirty one feet (331') of right of way on Pioneertown Road, Assessor's Parcel No. 594-061-08**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, APPROVING STREET VACATION SV-01-12 TO VACATE THAT PORTION OF EASEMENT ON ASSESSOR'S PARCEL NO. 0594-061-08 AS IDENTIFIED HEREIN

Deputy Town Manager Stueckle advised an application was submitted to the Town by Southern California Gas Company to vacate a portion of Pioneertown Road. The Town's General Plan, Circulation Element, identifies the road as an 80' wide collector. Based upon existing dedications, the existing right of way is 12' wider than required by the Circulation Element. The Planning Commission reviewed the street vacation request and confirmed that it is in conformance with the General Plan.

Mayor Rowe opened the public hearing, and as no one appeared to speak, she closed the hearing.

Council Member Huntington questioned if the vacation of the easement affects the public utilities easements. Deputy Town Manager Stueckle advised it does not, noting the Town does not have the authority to vacate the underlying rights of other entities.

Council Member Lombardo moved to approve and adopt Resolution No. 12-42, vacating approximately twelve (12') feet of that portion of easement(s) on the east side of Assessor's Parcel Number 594-061-08. Council Member Huntington seconded. Motion carried 4-0

PUBLIC COMMENT

Ed Montgomery, Yucca Valley, spoke in opposition to Measure U, stating it is a general fund tax so it is illegal for the Town to designate the money to anything. He accused the Town of lying about Measure U, calling it an effort to create a slush fund, give employee raises, and other various allegations. He told the council he smelled recall.

Ellin Loveless, Yucca Valley, spoke in favor of Measure U and thanked the Council for having the foresight to bring the issue before the community and addressing the infrastructure and safety of our Town.

Jennifer Collins, Yucca Valley, spoke in favor of Measure U, stating that many members of the community are yes on U. She thanked the Council, Mayor and Town Manager for looking out for the Town's future.

Bill Neeb, Indio, thanked the Council, Town Manager and everyone responsible for bringing forward Measure U and giving us a chance to go forward to a bright future, and giving our property and businesses a chance to thrive. He encouraged citizens to attend the strategic planning sessions to see how the Town's money is spent.

Sarann Graham, Yucca Valley, commented the Town needs to consider how long the citizens and residents want to wait to have good infrastructure in the community. It depends on sales tax, and if we don't grow the community we don't grow sales tax. We as citizens demand and want good services and a good decent quality of life. The Town needs to make sure it has the revenue to meet those demands.

STAFF REPORTS AND COMMENTS

Town Manager Nuaimi it is not surprising that Mr. Montgomery makes his comments and leaves without hearing a response. The Council and Staff have talked about fiscal responsibility for this community and the Town lived within its means, and demonstrated fiscal restraint. This town has stepped up, scrapped and cut everything it can to be prudent with the citizens' resources, and to have Mr. Montgomery call the Council liars is a slap to the people of this

community. His comments are a disservice to everyone who lives here. Town Manager Nuaimi thanked the people who have been attending the sessions over the past year. He also expressed appreciation for everyone's patience during the recent road construction.

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

16. Council Member Huntington

Congratulated Kathy Ainsworth on her retirement and wished her well, noting she has always held her job to highest standards.

Reported regarding attendance at a tour of a manufactured housing facility in San Jacinto on October 5th. The firm that is going to build the senior housing facility in Yucca Valley has experience this type of construction in other locations.

Reported regarding attendance at the October 13th opening of the South Side dog park.

Commented that he and Nancy hosted their 50th high school reunion.

Reported regarding attendance on October 22nd at an assembly regarding recycling at Yucca Mesa Elementary School with Joel Green from the PBS show Curiosity Quest. Mr. Green is a highly entertaining and active person, and able to get the kids involved.

Reported regarding attendance at the Animal Care JPA meeting looking at the bid results for the replacement animal shelter. The item will be coming to the Council at the next meeting.

Reported regarding attendance at the Morongo Basin Transit Authority meeting, noting they will be looking at the Wal-Mart opening and bus route changes.

Encouraged all to attend the Gourd Festival on November 3-4, 2012

17. Council Member Lombardo

Congratulated Kathy Ainsworth on her retirement noting it was very moving to see her presentation.

Reported regarding attendance at the League of California Cities Desert Mountain Division Meeting in Hesperia on October 26th, where he had the opportunity to brag about Yucca Valley and all our projects.

18. Mayor Pro Tem Abel

Thanked Kathy Ainsworth for all her years of work for the Town, noting it speaks well to have so many long term employees.

Reported regarding attendance at the Hi-Desert Opportunity Conference, noting it was nice to see them promoting the area.

Congratulated the Recreation Staff for last weekend's activities, noting he attended his first pumpkin splash.

19. Mayor Rowe

Welcomed Lt. Toms.

Thanked former Mayor/Council Member Bill Neeb for attending tonight's meeting.

Thanked the Chamber of Commerce for the "Shop Local" card.

Commented she was asked to represent Yucca Valley at the start of the Hammers event, noting it was a great opportunity to reach out to the race community.

Thanked Community Services Director Schooler and his staff for all the activities last weekend.

Echoed everyone sentiments regarding Kathy Ainsworth, noting she will be missed.

ANNOUNCEMENTS

Next Town Council Meeting, Tuesday, November 6, 2012, 6:00 p.m.

ADJOURNMENT

There being no further business the meeting was adjourned at 6:51 p.m.

Respectfully submitted,

Jamie Anderson, MMC
Town Clerk

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Shane R. Stueckle, Deputy Town Manager
Date: November 1, 2012
For Council Meeting: November 6, 2012

Subject: Resolution No. 12-
Black Lava Butte Wind Project
Resolution of Opposition

Prior Council Review: There has been no prior review of this matter.

Recommendation: That the Town Council:

- A. Adopts the Resolution; or
- B. Directs staff to modify the Resolution and return it to the Town Council for action.

Executive Summary: The Town has been requested to adopt a resolution opposing the Black Lava Butte Wind Project.

Order of Procedure:

- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Voice Vote)

Discussion: The Bureau of Land Management (BLM) authorized the installation of four meteorological test towers in unincorporated County area(s) near Yucca Valley. Environmental documents for the project stated the following.

"The purpose of the proposed action is to collect information to assess the potential of the proposed area to provide wind energy in an economical fashion. The installation of wind measurement equipment is needed to evaluate the local wind resources. The need for this type of land use was recognized in the California Desert Conservation Area Plan (CDCAP), the BLM 2005 Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administrated Lands in the Western United States, and more recently in the Energy Policy Act of 2005.

Reviewed By:


Town Manager

Town Attorney

Mgmt Services

Dept Head

<input checked="" type="checkbox"/> Department Report	<input type="checkbox"/> Ordinance Action	<input checked="" type="checkbox"/> Resolution Action	<input type="checkbox"/> Public Hearing
<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Minute Action	<input type="checkbox"/> Receive and File	<input type="checkbox"/> Study Session

The proposed project is needed to meet the growing demand for electrical power in California, especially from renewable energy sources. There are a limited number of locations in California where such a project is feasible due to the available wind resource, topography, land use restrictions, and other issues. Therefore it is of high important to investigate the feasibility of using BLM land for the proposed project.”

Local coalitions formed to oppose the development of wind energy generation towers in the noted locations for a number of factors, including but not limited to potential impacts to cultural and historic resources, view sheds, and impacts to biological resources.

Prior Town Council action resulted in the adoption of Resolution No. 07-19, opposing the Green Path North project.

Alternatives: Do not adopt the resolution and direct staff to modify and return it to the Town Council for action.

Fiscal impact: NA

Attachments: Resolution No. 12-
Project Information Materials
Resolution No. 07-19

RESOLUTION NO. 12-

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, OPPOSING THE CONSTRUCTION OF THE BLACK LAVA BUTTE WIND PROJECT

WHEREAS, the Town supports the use of responsible renewable sources of energy, such as geothermal, solar and wind, and encourages programs that reduce greenhouse gas emissions, while placing a high value on protecting and preserving the natural resources and tourist-economies of the California Deserts; and

WHEREAS, the Los Angeles Department of Water and Power (LADWP) proposed a project called Green Path North [GPN] to construct new high-tension power transmission lines for the purpose of attaining alternative energy goals in the Los Angeles region; and

WHEREAS, LADWP subsequently issued a request for proposals [RFPs] for their Green Path North Project and applications were filed on the GPN alignment, one of them the Black Lava Butte Wind Project [BLBWP]; and

WHEREAS, the BLBWP is an adjunct of the Green Path North transmission line that was proposed and then withdrawn by LADWP leaving this Power Project alone without an access to major transmission capacity to export the generated power into the Grid; and

WHEREAS, the Town of Yucca Valley on June 14th 2007 has adopted Resolution No. 07-19 in opposition to the proposed GPN transmission line alignment; and

WHEREAS, the BLBWP would cause aesthetic degradation to the region's viewshed, to historically and culturally significant lands, and the economic stability of the region's rural and open space communities; and

WHEREAS, the vicinity of the BLBWP is presently sited adjacent to the BLM Bighorn Mountain Wilderness, a wildlife corridor, a habitat for endangered and threatened species; and

WHEREAS, the BLBWP will introduce incompatible visual and auditory elements in an otherwise quiet and dark open space region and thereby will create an unwanted light and sound nuisance; and

NOW, THEREFORE, BE IT RESOLVED that the Town of Yucca Valley opposes Black Lava Butte Wind project on the abandoned GPN alignment.

APPROVED AND ADOPTED THIS 6th day of November, 2012.

ATTEST:

TOWN CLERK

**BLACK LAVA BUTTE WIND ENERGY TESTING AND MONITORING FOR A
LARGER PROJECT AREA RIGHT-OF-WAY GRANT APPLICATION**

**FINAL ENVIRONMENTAL ASSESSMENT
AND FINDING OF NO SIGNIFICANT IMPACT**

**PREPARED FOR:
BUREAU OF LAND MANAGEMENT, BARSTOW FIELD OFFICE
ATTN: JOAN PATROVSKY
2601 BARSTOW ROAD
BARSTOW, CALIFORNIA 92311**

**PREPARED BY:
SAPPHOS ENVIRONMENTAL, INC.
133 MARTIN ALLEY
PASADENA, CALIFORNIA 91105**

FEBRUARY 4, 2008

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SECTION I INTRODUCTION

A) BACKGROUND

Sierra Renewables, LLC has submitted an application to the Bureau of Land Management (BLM; Barstow, California) Field Office for a Wind Energy Site Testing and Monitoring Project Area Right-of-Way Grant to construct, operate, and maintain four meteorological (met) masts up to 197 feet (60 meters) high within a larger project area of approximately 3,920 acres of public land. The proposed action would occur on federal BLM land near the unincorporated communities of Flamingo Heights, Rimrock, and Pipes Canyon in San Bernardino County; therefore, pursuant to the National Environmental Policy Act (NEPA), BLM is the Lead Agency for the land use decision-making process.

General Location

San Bernardino County, north of Yucca Valley, near Flamingo Heights, west of Highway 247 and north of Pipes Canyon Road

Legal Description

San Bernardino Baseline and Meridian

T2N, R5E

Section 19, SE1/4
Section 20, SW1/4, S1/2SE1/4
Section 29, N1/2, SW1/4
Section 30, All
Section 31, All
Section 32, All
Section 33, S1/2, S1/2N1/2

T1N, R5E

Section 4, All

Location of the Meteorological Masts

**TABLE 1
PROPOSED MET MAST LOCATIONS**

Mast / Helicopter Landing Area	Latitude and Longitude (In degrees, minutes, seconds)		UTM Zone 11 NAD 83 meters		UTM Zone 11 NAD 27 meters	
	Latitude	Longitude	Northing	Easting	Northing	Easting
Helicopter 1	116d28'02.84"W	34d11'47.04"N	3784060.77657	549066.211528	3783865.70136	549067.322292
Mast 1	116d28'02.89"W	34d11'44.73"N	3783989.77463	549065.210736	3783794.70145	549066.321458
Helicopter 2	116d29'10.45"W	34d14'17.61"N	3788689.86441	547312.313727	3788494.6564	547313.385982
Mast 2	116d29'06.26"W	34d14'19.77"N	3788756.8685	547419.31156	3788561.6586	547420.386258
Helicopter 3	116d30'03.42"W	34d13'24.59"N	3787049.79167	545965.33023	3786854.63016	545966.371547
Mast 3	116d30'05.44"W	34d13'26.51"N	3787108.79202	545913.332571	3786913.62882	545914.372725
Helicopter 4	116d27'56.83"W	34d12'22.59"N	3785156.80933	549214.22027	3784961.7028	549215.334679
Mast 4	116d27'57.67"W	34d12'25.29"N	3785239.81112	549192.221794	3785044.70221	549193.335727

B) NEED FOR THE PROPOSED ACTION

The purpose of the proposed action is to collect information to assess the potential of the proposed area to provide wind energy in an economical fashion. The installation of wind measurement equipment is needed to evaluate the local wind resource. The need for this type of land use was recognized in the California Desert Conservation Area Plan (CDCAP),¹ the BLM 2005 *Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States*,² and more recently in the Energy Policy Act of 2005.³

The proposed project is needed to meet the growing demand for electric power in California, especially from renewable energy sources. There are a limited number of locations in California where such a project is feasible due to the available wind resource, topography, land use restrictions, and other issues. Therefore, it is of high importance to investigate the feasibility of using the BLM land for the proposed project.

Scope of Environmental Analysis

This Environmental Assessment examines factors that may have the potential to be impacted by the proposed installation of four met masts. The level of detail of the environmental analysis includes the installation of met masts, associated guy-wire supports, and helicopter landing pads to deliver the met masts.

The site testing and monitoring authorization is independent of any application that may be made in the future for wind energy development. The holder of a site testing and monitoring right-of-way (ROW) grant establishes no right to development and is required to submit a separate application to BLM for analysis, review, and decision.

¹ Bureau of Land Management. 1999 [1980]. *California Desert Conservation Area Plan*. Sacramento, CA.

² Bureau of Land Management. June 2005. *Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States*. Available at: <http://windeis.anl.gov/documents/fpeis/index.cfm>

³ Energy Policy Act. 8 August 2005. 42 U.S. Code 15801. Public Law 109-58. Washington, DC: U.S. Government Printing Office.

C) CONFORMANCE WITH LAND USE PLANS

The proposed action is subject to the BLM West Mohave Plan.⁴ Map 2-2, Alternative A, Multiple Use Classes shows the area for the proposed action classified as BLM limited use. The proposed action is also consistent with the land use classification under the BLM.

The proposed action is also subject to the CDCAP of 1980, as amended. The CDCAP provides for wind energy development in Multiple-Use Classes L, M, and I and does not place special requirements on this type of action.

Class L protects sensitive, natural, scenic, ecological, and cultural resource values and are managed to provide for lower intensity, carefully controlled multiple-use resources, while ensuring that sensitive values are not significantly diminished. This class allows for wind measurement projects provided NEPA requirements are met.

The proposed action is consistent with the type and degree of land use actions allowed within the area as defined by CDCAP.

D) RELATIONSHIP TO APPLICABLE REGULATORY REQUIREMENTS AND REQUIRED COORDINATION

This Environmental Assessment is prepared pursuant to NEPA,⁵ regulations in 40 CFR 1500 et seq.; the Environmental Quality Improvement Act of 1970, as amended;⁶ Section 309 and 176 (c) of the Clean Air Act, as amended;⁷ and Executive Order 11514, Protection and Enhancement of Environmental Quality.⁸

The proposed action is consistent with other federal and state agencies, and local plans and programs. Sierra Renewables, LLC shall obtain all relevant federal, state, and local government permits and/or licenses, and the proposed action and alternatives shall be consistent with federal, state, and local laws, regulations, and plans to the maximum extent possible. This document in whole or in part may also be used to fulfill other federal, state, and/or local requirements, such as the California Environmental Quality Act (CEQA), the California Desert Protection Act, the Wilderness Act, or the Federal Land Policy Management Act (FLPMA) amendment analysis.

⁴ Bureau of Land Management. May 2003. *Draft Environmental Impact Report and Statement for the West Mohave Plan: A Habitat Conservation Plan and California Desert Conservation Area Plan Amendment, Volume 1*. Moreno Valley, CA.

⁵ National Environmental Policy Act. 1969. 42 U.S. Code 4321 et seq. Washington, DC: U.S. Government Printing Office.

⁶ Environmental Quality Improvement Act. 1970. 42 U.S. Code 4371 et seq. Washington, DC: U.S. Government Printing Office.

⁷ Clean Air Act, as amended. 1970. 42 U.S. Code 7401 et seq. and 42 U.S. Code 7609. Washington, DC: U.S. Government Printing Office.

⁸ Executive Order 11512, "Protection and Enhancement of Environmental Quality." Adopted 5 March 1970. As amended by Executive Order 11991. 24 May 1977.

All action taken under the CDCAP is subject to valid existing rights as provided for in Sections 601, 603, and 701 of the FLPMA of 1976, as amended. Section 501 of Title V within FLPMA, as amended,⁹ allowed for the BLM to grant, issue, or renew ROWs over, upon, under, or through public lands.

The proposed action is consistent with the President's National Energy Policy of 2001, the Energy Policy Act of 2005, and the BLM's National Energy Policy Implementation Plan of 2001. A general policy for BLM is the encouragement of research into the development of wind energy in areas compatible with its specific resource values.

The BLM implemented a comprehensive Wind Energy Development Program in 2005 to administer the policies and best management practices (BMPs) for the development of wind energy resources on BLM-administered public lands. This document helped to ensure that potential adverse impacts associated with all stages of wind energy development on BLM-administered land are minimized to the greatest extent possible. The policies addressed the administration of wind energy development activities and the identified BMPs and mitigation measures that would need to be incorporated into project-specific Plans of Development and ROW authorization stipulations.

The proposed action would entail a cultural resources inventory that would address provisions of Section 106 of the National Historic Preservation Act (NHPA) of 1966 regarding the identification and protection of significant cultural resources involved in federal undertakings.

⁹ Federal Land Policy and Management Act. 1976. 43 U.S. Code 1761. Washington, DC: U.S. Government Printing Office.

SECTION II PROPOSED ACTION

This Environmental Assessment evaluates the potential environmental impacts of establishing four met masts for the Black Lava Butte proposed project area and the no action alternative.

The proposed action is to issue a ROW grant for installation of four met masts within a project area on public lands administered by BLM. The ROW would be issued for a period of three years and would be renewable at the end of the three-year period only under certain circumstances. Results from data collected over the three-year period would be used to determine dominant wind patterns and to ascertain whether the prevailing wind is consistent and sufficient to develop a wind energy project. Upon reaching this decision, a separate application and authorization would be required for any future commercial wind energy development after the data collection period is completed.

Each of the four met masts would contain meteorological equipment/anemometers, which would continuously measure the wind speeds and wind direction. The installation of wind measurement equipment is crucial for the evaluation of the potential for wind resources at this location, to determine whether a wind energy project would be feasible in future or not, and if so, to determine future project layout and site boundaries. No substitute currently exists for the installation of wind measurement equipment on the proposed project site, and on-site wind measurements are crucial for the development and financing of a wind energy project in the future.

The proposed project is needed to establish whether wind energy development may be feasible at this location in order to meet the growing demand for electric power in California, especially from renewable energy sources. Few locations in California exist where such a project is feasible, primarily because of issues related to the availability of adequate wind resources, topography, electrical transmission, land use restrictions, and other issues. The proposed action is consistent with BLM's policy for the potential development of wind energy resources on federal lands and with the National Energy Policy Act of 2005.

The met masts would be composed of steel tube sections that slide together without the use of bolts and clamps and would be attached to a 4-foot-square steel base plate that rests on the surface of the ground and anchored to the ground using guy wires. The tube sections will be laid on the ground and fitted into each other at each of the four locations. The masts would be erected with a gin-pole and winch system attached to two additional guy wires anchored to the ground.

The proposed masts are approximately 197 feet (60 meters) high with meteorological equipment installed at various intervals up the mast to collect data (Table 2, *Dimensions and Specifications of the Masts*). A logger inside an enclosed case would be located at the base of the mast. The logger records the data and is powered by a small solar panel or by a standard battery package.

Guy wires support the mast. The wires would extend in each of four directions at right angles in four sets for a total of 16 wires, and they would be secured to the ground with 12 anchor pegs (3 pegs in each direction). Each anchor peg would consist of a steel rod less than 1 inch thick and approximately 4 feet long that is inserted into the ground and attached into the soil or the underlying rock. In the event that the soil is too loose and sandy to support the anchors, heavier duty alternative anchors will be used, which will be up to 2 inches thick and 4 feet long and will require the digging of holes of approximately 18-inch diameter and 40-inch deep, which will be

either excavated manually or using an auger (handheld drill) to insert the anchors. The holes will be back-filled with the excavated materials.

**TABLE 2
DIMENSIONS AND SPECIFICATIONS OF THE MASTS**

Elements	Dimensions
Mast height	60 m (197 feet)
Tube dimensions	8-inch diameter at bottom, 4.5-inch diameter at top Sections of 3 m (10 feet) and 1.5 m (5 feet)
Guy radius	Inner: 38 m (125 feet) Middle: 44.5 m (146 feet) Outer: 50.8 m (166 feet 6 inches)
Guy wires	4.8 mm (0.19 inch) thick galvanized aircraft cable
Guy levels	9.9 m (32 feet 7 inches) 21.5 m (70 feet 6 inches) 28.5 m (93 feet 4.5 inches) 35.4 m (116 feet 2.5 inches) 42.4 m (139 feet 0.5 inch) 50 m (163 feet 11 inch) 58.7 m (192 feet 5 inch)

NOTE: m = meter; mm = millimeter

The met masts are temporary structures since the base plate and guy-wire anchors do not require cement foundations and can easily be removed at the end of the study period with little or no apparent impact on the land or the vegetation. The masts are below the height (200 feet) for which the Federal Aviation Administration requires lighting.

Installation

Approximately two days would be required for the assembly and installation of each met mast, with the use of a minimum of four people to install. The thin steel tubular tower for each met mast comes in several 5- and 10-foot-long pieces. The pieces would be laid out along the ground and fitted into each other to assemble the mast to its full length. Wind measurement equipment would be installed at the correct heights, and the base plate would also be assembled. The guy wires would be attached at the appropriate points on the mast sections and anchored into the ground using metal anchor pegs.

Following assembly, the mast would be laid out along the ground and then erected using a gin-pole and winch attached to two additional guy wires anchored to the ground, which would be removed once the mast has been installed. The mast would be winched up per the "tower tilt up sequence," and once the mast is vertical, the guy wires would be tensioned.

The temporary lay-down area required for the installation of each mast would be approximately 60 meters in radius from the base of the mast. The lay-down area would be used while assembling the mast. Installation of the anchors would be accomplished manually by hand or by an auger (handheld drill) to a depth of approximately 4 feet deep. If soil is removed during the installation process, it will be placed back into the ground after securing the wires and masts. The lay-down period would be limited to two days. Removal of vegetation at the lay-down area would not be necessary. Minimal surface disturbance would occur within the temporary work areas, probably no more than 0.2 acre for all four masts combined.

Site Access

The four met masts would be transported via helicopter to the area covered by the ROW grant.

To reach the location for Mast No. 1, 2, 3, and 4, the helicopter will land in the area shown in Figure 1, *Proposed Project Location and Elements*, for the applicable mast, and each mast will be carried on foot to the mast location.

No new road construction is proposed for the four met masts, and there would be no off-road vehicular travel. Some of the installation team may access each site on foot from the nearest paved or unpaved roads. If deemed necessary, the installation of fencing around the met masts may be done in order to prevent vandalism. However, if this occurs, the fencing would be installed in a minimally intrusive manner.

Operations and Maintenance

The met masts would operate year round on a continuous basis, passively collecting and recording wind data, which can be transmitted and downloaded remotely for processing. Alternatively, the data can be downloaded from the data logger on a monthly basis. Monthly one-hour visits by one person for data removal and mast inspection may be needed. After any storms or periods of very high winds, a one-hour site visit by one or two people may also be necessary to inspect the masts and ensure that there is no damage. If any damage is found, a one- to two-day site visit by two or more people may be necessary for repairs. Other than these efforts, no operations or maintenance work should be necessary.

No Action Alternative

The No Action Alternative is not consistent with the CDCAP for wind energy development. The site was chosen as an environmentally superior site because of its ability to achieve the objectives of serving as a test site for future wind energy development without resulting in environmental impacts. If the No Action Alternative is chosen, then the site would remain as is, with no action implemented. No met masts would be established, and research would not be conducted to determine applicability of wind energy in this area. No implementation would occur in relation to BLM's policy for the potential development of wind energy resources on federal lands.

History and Process Used to Formulate the Alternatives

Previous BLM-issued ROWs for the installation of met masts were researched, as well as BLM policy for potential development of wind energy resources on federal lands.

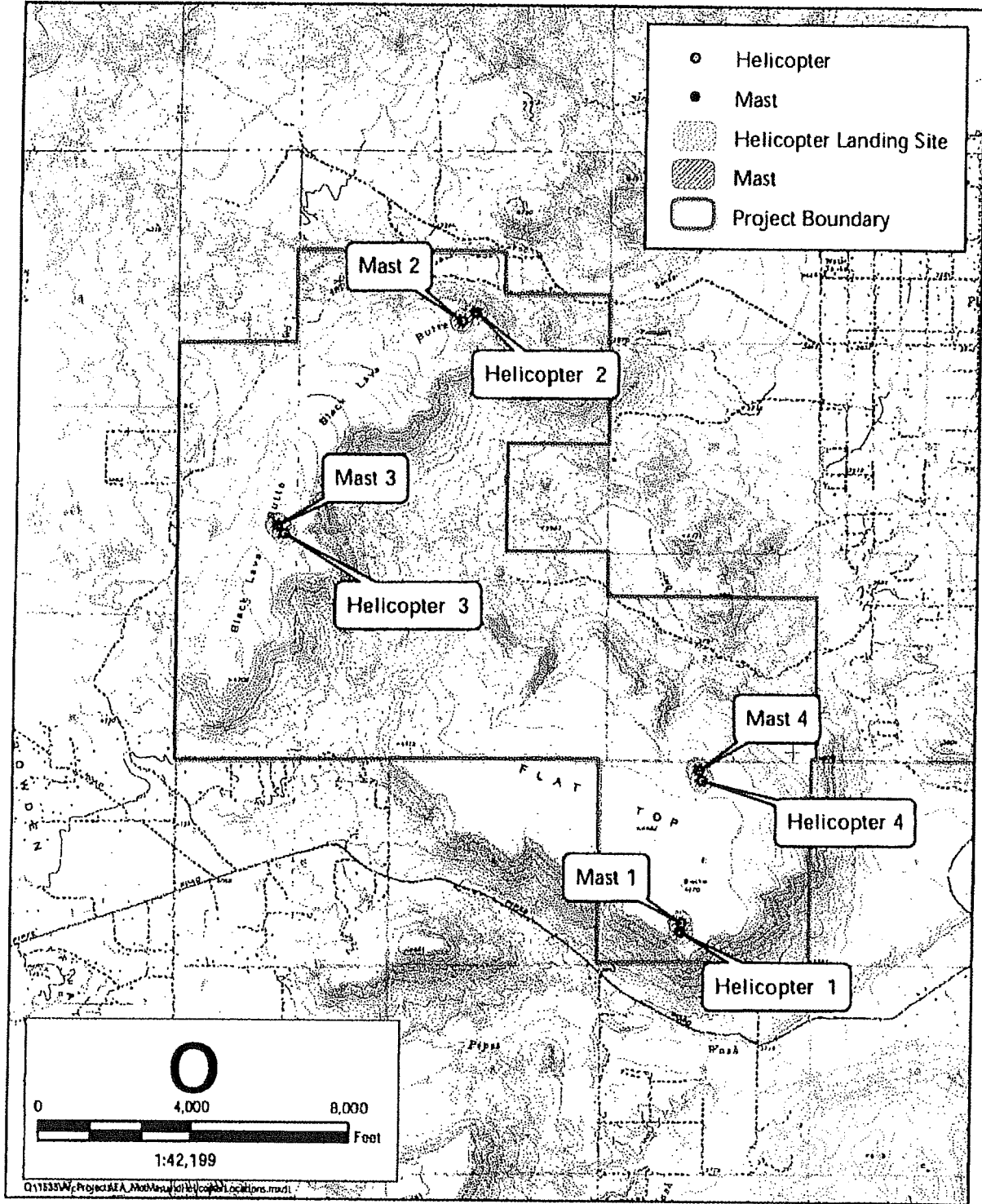


FIGURE 1
 Proposed Project Location and Elements

SECTION III

ENVIRONMENTAL IMPACTS

Elements of the Environment

This analysis evaluated the potential for impacts to 16 critical or required elements of the human environment. The critical elements include adverse energy impacts, air quality, areas of critical concern, cultural/paleontological resources, environmental justice, farmlands (prime or unique), floodplains, migratory birds, Native American religious concerns, nonnative invasive species, threatened or endangered species of plants and wildlife, wastes (hazardous or solid), water quality (surface and ground), wetlands/riparian zones, wild and scenic rivers, and wilderness.

The analyses of impacts, as designated by BLM, for all elements of the environment, including the critical elements, are addressed under three categories:

1. Uses or resources not present and not affected by the proposed action
2. Uses or resources present and not affected by the proposed action
3. Uses or resources present and that may or may not be affected by the proposed action

Uses or Resources Not Present and Not Affected by the Proposed Action

The following critical or other required elements were determined not to be present and will not be discussed further.

Adverse Energy Impacts (Executive Order 13211 and 13212 and Energy Policy Act of 2005)

The goal of the proposed project is to collect wind energy data to determine the feasibility of a wind energy development at the proposed project site in order to meet the growing demand for electric power in California and California's Renewable Portfolio Standards. The elements of the proposed action have been reviewed in accordance with Executive Orders 13211 and 13212 of May 18, 2001 and the Energy Policy Act of 2005. Implementation of the proposed project has the potential to benefit energy production and support the development of renewable energy supplies. Therefore, this element will not be discussed further.

Environmental Justice

Executive Order 12898 of 1994 required that federal agencies identify and address areas where their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.

The purpose of the proposed action is to collect information to assess the potential of the proposed area to provide wind energy. The proposed project involves the temporary installation of wind measurement equipment. The proposed action would not have an adverse health or environmental effect on minority or low-income populations. Therefore, this element will not be considered further.

Farmland (Prime/Unique)

The proposed action would not take place in any designated or proposed Prime or Unique Farmlands. There are no water sources available for farming purposes. This element will not be considered further.

Floodplains

Executive Order 11988 requires federal agencies to work toward reducing to the extent possible the impacts of floods and restoring and preserving natural flood plains and to take action to avoid floodplain development when there is a feasible alternative.

The proposed action would not take place within a floodplain, as it is proposed to occur on two flat-topped mesas between approximately 3,800 to 4,400 feet in elevation. Therefore, this element will not be considered further.

Wild and Scenic Rivers

There are no waterways near the proposed project area that are designated under the federal Wild and Scenic Rivers Act as amended through 2004. Therefore, this element will not be discussed further.

Wilderness

The proposed project site is not located in a designated Wilderness Area or Wilderness Study Area. Therefore, this element will not be considered further.

Uses or Resources Present and Not Affected by the Proposed Action

The following critical elements are present and have been analyzed; however, they will not be affected by the proposed action for the reasons provided below.

Surface and Groundwater Quality

Installation of four met masts would have a negligible adverse effect on surface and ground water quality due to the limited period and limited area of ground disturbance. Land disturbance during construction as a result of mast assembly and installation of anchors and guy wires would be temporary during the two-day construction period, and soils removed during the installation process will be placed back into the ground to secure the anchors. No grading or excavation would be required beyond drilling to install guy-wire anchors into the ground; no new roads would be constructed; and no hazardous materials would be involved during the construction phase of the proposed project.

During the operation, the only impervious area would be the small base plate (4 square feet) into which the mast tubing is inserted. This small impervious surface would have a negligible effect on surface water flow and groundwater recharge. The proposed project would have no effect on groundwater quality because no hazardous materials would be involved during the time in which wind energy data would be collected, and there would be no runoff to surface water or groundwater as a result of this proposed project.

Therefore, construction and operation of the proposed four met masts would have no perceptible impacts to the quality of surface water and groundwater, and the water quality (surface and ground) element will not be discussed further.

Wastes, Hazardous or Solid

The proposed action takes place on undeveloped public lands in San Bernardino County. There would be no hazardous or solid waste generated by the met mast construction or operation. Gasoline and diesel fuel would be used to power the helicopters needed to erect each of the four masts. However, neither gasoline nor diesel fuel would be stored at any of the four met mast sites. Helicopters would be fueled at approved fueling stations and flown to the respective sites.

Upon completion of the data collection efforts, the four met masts would be removed from the respective sites. All recoverable components of each meteorological mast would be removed and put into storage for future uses. Any components deemed to be unrecoverable would be disposed of in approved landfills. No impacts are expected from the use or management of hazardous or solid wastes. Therefore, this element will not be considered further.

Wetlands and Riparian

Met masts are established on mesa tops, the most elevated areas within the proposed project site in order to be exposed to wind. Met masts would not be established in washes where riparian areas would be found. Therefore, this item will not be considered further.

Uses or Resources Considered in Detail

The following critical or required elements are present and may be affected by the proposed action, and are considered in detail below.

Air Quality

The proposed action would be implemented within the Mojave Desert Air Quality Management District (MDAQMD). The four met masts would be installed in an area designated as nonattainment for federal and state ozone and state particular matter (PM₁₀ and PM_{2.5}) standards. Therefore, a nonconformity determination is required to determine the need for air quality mitigation.

No permits would be required from the MDAQMD to implement the proposed action. Construction of the proposed action would generate very low levels of associated emissions since construction activities would only take two (2) days per mast and would require a minimal use of helicopter and vehicles to transport installation materials and crews, respectively, during the 2-day construction phase. Therefore, pollutants emitted by installation activities associated with the proposed action would be considerably below the federal conformity significance thresholds, and mitigation for air quality impacts is not necessary. Operation of the proposed four met masts would be expected to generate air pollutant emissions at a negligible level since the proposed met masts would passively collect and record wind data, and one-hour monthly visits would only be conducted by one person for data removal and tower inspection. Therefore, operation of the proposed

action would have negligible adverse effects on air quality, well below de-minimus thresholds.

Biological Resources

The evaluation of the proposed action on biological resources is based on the following:

1. Construction activities at each site would be confined to a 300-foot radius around each mast
2. Construction at each site would be completed in two days
3. Construction activities would not require scraping the ground surface, grading, or vegetation clearing. Drilling of holes may be necessary to set and secure guy wire for the masts.
4. The met masts would be removed from the proposed project site within three years following installation.

The proposed four met masts would be located within the southern Mohave Desert on two flat-topped mesas between approximately 3,800 to 4,400 feet in elevation. The climate in this area is characterized by extremely hot summers (frequently exceeding 105 degrees Fahrenheit) and dry (less than 6 inches of rain per year). This portion of the southern Mojave Desert is mostly rocky with a variety of low- and high-desert plant communities represented. The terrain of interest on the mesa tops is dominated by creosote bush (*Larrea tridentata*) scrub and blackbush (*Coleogyne ramosissima*) scrub. All four met mast sites have gravelly soil and similar vegetation.

Two qualified biologists conducted a reconnaissance-level, habitat-based assessment of the four met mast sites during November 8, 2007. The assessment consisted of visiting each site and conducting a 30-minute area search within a 300-foot radius of the center point. The proposed project site is primarily composed of creosote scrub with relatively low plant diversity. The tower sites are on the top of a mesa; the topography on the mesa is relatively flat with slight increasing and decreasing grades. There is evidence of small-mammal activity throughout the site, but no small mammals were observed during the survey period. Plant communities, native and nonnative vegetation, potential habitat for migratory species (including areas outside of the 300-foot radius), and presence or evidence of migratory species were noted at the four sites. A list of plant and animal species observed at the four proposed met mast sites is provided in Table 3, *Faunal Compendium*, and Table 4, *Floral Compendium*. Plant names follow *The Jepson Manual*¹⁰ or other authoritative sources.

Migratory Birds

This section analyzes potential impacts on bird species protected under the Migratory Bird Treaty Act of 1918. A list of four species of migratory birds observed at the four proposed met mast sites is provided in Table 3. The most numerous of the four species was the horned lark (*Eremophila alpestris*). All four avian species are commonly occurring species in the southern or western Mojave Desert. Thus, the proposed action would not significantly impact migratory birds at the proposed project areas.

¹⁰ Hickman, James C., ed. 1993. *The Jepson Manual: Higher Plants of California*. Berkeley, CA: University of California Press.

Nonnative Invasive Species

As a result of biological field reconnaissance surveys of the proposed project site conducted by Sapphos Environmental, Inc. biologists (Mr. Douglas McNair and Mr. Andrew Keller) on November 8, 2007, no nonnative or invasive species were documented within the proposed project site. Proposed construction activities are not expected to impact any plant communities of concern. Therefore, the proposed action would not promote the spread or introduction of nonnative invasive species to the proposed project site; therefore, this element will not be considered further.

Threatened or Endangered Species

For this Environmental Assessment, potential impacts to threatened and endangered species that are legally protected under the California Endangered Species Act (CESA) and the federal Endangered Species Act (ESA) are analyzed according to the following definitions:

1. Species listed or proposed for listing as threatened or endangered under ESA [Title 50, Code of Federal Regulations (CFR), Section 17.12 for listed plants, 50 CFR 17.11 for listed animals, and various notices in the *Federal Register* (FR) for proposed species]
2. Species that are candidates for possible future listing as threatened or endangered under ESA (67 FR 40657, June 13, 2002)
3. Species that are listed or proposed for listing by the State of California as threatened or endangered under CESA [Title 14, California Code of Regulations (CCR), Section 670.5]
4. Plant species listed as rare under the California Native Plant Protection Act of 1977 (California Fish and Game Code, Section 1900 et seq.)

The reconnaissance-level survey conducted on November 8, 2007, was too late in the season for many annual and herbaceous perennial plants to be evident, but shrubs and trees were evident. The flora at Mast No. 2, which also contained an upper slope below the mesa top, was the richest of the four sites but still covered by a variety of commonly occurring species and can be characterized as Mohave Creosote Scrub. The dominant plants were creosote (*Larrea tridentate*) and blackbrush (*Coleogyne ramosissima*). The only Joshua trees (*Yucca brevifolia*) located within any of the four met mast sites were present at Mast No. 1. All wildlife species determined to be present within the four met mast sites were commonly occurring species and included lizards, birds, and mammals. No threatened or endangered plants or wildlife were found as a result of reconnaissance-level surveys. The action area does not contain habitat suitable to support the desert tortoise, and no desert tortoise were observed. Thus, the proposed action would not permanently impact threatened or endangered plants or wildlife within the area of the proposed action. No vegetation would be cleared for the installation of the met masts and landing of the helicopter. Therefore, temporary impacts for installation of the met masts and landing of the helicopter would not alter the vegetation in the area.

**TABLE 3
FAUNAL COMPENDIUM**

Family	Scientific Name	English Common Name
Lizards		
Phrynosomatidae	<i>Uta stansburiana</i>	Common side-blotched lizard
Birds		
Cathartidae	<i>Cathartes aura</i>	Turkey vulture
Corvidae	<i>Corvus corax</i>	Common raven
Alaudidae	<i>Eremophila alpestris</i>	Horned lark
Emberizidae	<i>Amphispiza bilineata</i>	Black-throated sparrow
Mammals		
Leporidae	<i>Lepus californicus</i>	Black-tailed jackrabbit
Geomyidae	<i>Thomomys bottae</i>	Botta's pocket gopher
Heteromyidae	<i>Dipodomys</i> spp.	Kangaroo rat spp.
Canidae	<i>Canis latrans</i>	Coyote

**TABLE 4
FLORAL COMPENDIUM***

Family	Scientific Name	English Common Name
Gymnosperms		
Ephedraceae	<i>Ephedra viridis</i>	Green Mormon tea
Dicots		
Asteraceae	<i>Ambrosia dumosa</i>	White bursage
Asteraceae	<i>Brickellia incana</i>	Wholly brickellia
Asteraceae	<i>Encelia actoni</i>	Acton encelia
Asteraceae	<i>Encelia farinosa</i>	Brittlebush
Asteraceae	<i>Ericameria cuneata</i>	Rock golden bush
Asteraceae	<i>Ericameria linearifolia</i>	Linear-leaved golden bush
Asteraceae	<i>Hymenoclea salsola</i>	Burrobush
Asteraceae	<i>Tetradymia axillaris</i>	Cotton-thorn
Cactaceae	<i>Echinocereus engelmannii</i>	Calico hedgehog
Cactaceae	<i>Echinocereus triglochidiatus</i>	Mohave mound cactus
Cactaceae	<i>Ferocactus cylindraceus</i>	California barrel cactus
Cactaceae	<i>Opuntia bigelovii</i>	Teddy bear cholla
Cactaceae	<i>Opuntia parishii</i>	Dead-man's cactus
Capparaceae	<i>Isomeris arborea</i>	Bladderpod
Chenopodiaceae	<i>Grayia spnosa</i>	Hop-sage
Fabaceae	<i>Acadia greggii</i>	Catclaw
Fabaceae	<i>Olneya tesota</i>	Ironwood
Fabaceae	<i>Senna armata</i>	Spiny senna
Lamiaceae	<i>Salazaria Mexicana</i>	Bladder sage
Malvaceae	<i>Sphaeralcea ambigua</i>	Desert mallow
Polygonaceae	<i>Eriogonum fasciculatum</i>	California buckwheat
Polygonaceae	<i>Eriogonum inflatum</i>	Desert trumpet
Rosaceae	<i>Coleogyne ramosissima</i>	Blackbrush
Solanaceae	<i>Lycium</i> spp.	Box thorn spp.
Zygophyllaceae	<i>Larrea tridentata</i>	Creosote bush
Monocots		
Liliaceae	<i>Yucca brevifolia</i>	Joshua tree
Liliaceae	<i>Yucca schidigera</i>	Mojave yucca
Poaceae	<i>Bromus</i> spp.	Brome spp.

NOTE: * The four traditionally recognized groups of higher plants are arrayed in the following sequence: ferns and their allies, gymnosperms, dicots, and monocots. Families are arrayed alphabetically within each of the four major groups, as are genera within families, species within genera, and infraspecific taxa within species following *The Jepson Desert Manual: Vascular Plants of Southeastern California* (Baldwin et al., 2002, University of California Press).

Black Lava Butte
February 4, 2008

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Environmental Assessment
Sapphos Environmental, Inc.

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Cultural Resources

This section analyzes potential impacts to cultural resources, including prehistoric and historic archaeological sites, pursuant to Section 106 of the NHPA. Section 106 of the NHPA states that federal agencies with direct or indirect jurisdiction over federally funded, assisted, or licensed undertakings must take into account the effect of the undertaking on any historic property that is included in or eligible for inclusion in the National Register of Historic Places (NRHP), and that the Advisory Council on Historic Preservation (ACHP) must be afforded an opportunity to comment, through a process outlined in the ACHP regulations at 36 CFR Part 800, on such undertakings. The study methods described were designed to provide the substantial evidence required to address the scope of analysis recommended in Section 106 related to cultural resources, prehistoric resources, and historic resources.

A literature review was conducted on October 29, 2007, to determine if the proposed action may have a significant impact on known cultural resources. This research consisted of a thorough records search at the San Bernardino Archaeological Information Center (SBAIC), located in the San Bernardino County Museum in Redlands, California. The purpose of the review was to 1) identify archaeological sites previously documented in the proposed project area; 2) to determine which sections of the area may have been previously surveyed, when those surveys took place, and how the surveys were conducted; and 3) to ascertain the potential for archaeological resources to be found in the proposed project area and within 1 mile of the proposed project boundary. In addition, the State of California Historic Resource Inventory (HRI) database, the NRHP, the California Register of Historical Resources, the listings of California Historical Landmarks, and the California Points of Historical Interest were examined to ascertain the presence of designated, evaluated, and/or historic-era resources within the proposed project site.

A Class III (intensive) archaeological survey was conducted on November 12 and 13, 2007, to determine the presence of prehistoric and/or historic resources within the area of potential effect (APE or study areas). The fieldwork consisted of a physical inspection through intensive pedestrian surveys of eight study areas totaling 52 acres within the larger, approximately 3,920-acre proposed project area. Of these 52 acres, 26 acres corresponded to the four proposed 200-foot (approximately 60 meter) radius meteorological mast pads plus a 100-foot (approximately 30 meter) radius buffer zone around the perimeter of each pad; the remaining 26 acres corresponded to four circular areas, each measuring 200 feet in radius with a 100-foot buffer zone around the perimeter of each area, that are intended as equipment drop-off and staging areas. Surveys were conducted on foot by a two-person crew walking transects spaced at 10-meter intervals.

The record search and Class III archaeological survey indicate that there are no prehistoric archaeological sites located within the APE. One prehistoric archaeological isolate (BLB OSO 1) was found within the APE. Isolates do not qualify as historic properties under NHPA because they lack contextual integrity and are unlikely to meet the criteria of significance. Therefore, the proposed action would have no significant adverse effects on prehistoric or historic archaeological resources, and this element will not be considered further.

Native American Religious Concerns

This section analyzes potential impacts to Native American sacred sites pursuant to Section 106 of the NHPA. Section 106 of the NHPA states that federal agencies with direct or

indirect jurisdiction over federally funded, assisted, or licensed undertakings must take into account the effect of the undertaking on any historic property that is included in or eligible for inclusion in the NRHP, and that the ACHP must be afforded an opportunity to comment, through a process outlined in the ACHP regulations at 36 CFR Part 800, on such undertakings. The study methods described below were designed to provide the substantial evidence required to address the scope of analysis recommended in Section 106 related to Native American Sacred Sites.

Pursuant to Executive Order 13007, the BLM Field Office in Barstow, California, assumed responsibility for coordination with the Native American Heritage Commission, interested tribes, and individuals concerning the presence of Native American sacred sites. Consultations were conducted between November 2007 and January 2008. During this time, BLM contacted eight Native American groups requesting information regarding the presence of sacred sites within the areas of potential effect; these groups include the Chemehuevi Reservation, the Colorado River Reservation, the Fort Mojave Indian Tribe, the Kern Valley Indian Council, the Las Vegas Paiute Tribe, the Moapa Band of Paiutes, the Morongo Band of Mission Indians, and the San Manuel Band of Mission Indians. Only one group, the Fort Mojave Indian Tribe, formally responded to BLM's consultation efforts, and they did not locate any Native American sacred sites within the identified areas of potential effect.¹¹ Therefore, based on the information available, there are no known Native American sacred sites within the areas of potential effect.

¹¹ Jim Shearer, Bureau of Land Management, Barstow, CA. 28 January 2008. Telephone conversation with Clarus Backes, Sapphos Environmental, Inc., Pasadena, CA.

SECTION IV **CUMMULATIVE IMPACTS**

There would be no cumulative effects on Areas of Critical Environmental Concern (ACEC), Floodplains, Prime or Unique Farmland, Wild or Scenic Rivers, Wetland/Riparian Zones, or Wilderness Areas because these elements do not occur within the proposed project area.

The analysis of effects of the proposed action on hazardous or solid wastes, environmental justice, water quality (surface/ ground), and energy indicated that these elements would not be affected by the proposed action. As a result, implementation of the proposed project would have no cumulative effects on these elements.

The analysis of effects of the proposed action on air quality identified a minor, negligible adverse effect. However, the four mast sites are in an area designated as nonattainment for state and federal ozone and PM_{2.5} and PM₁₀ standards according to the MDAQMD, and implementation of the proposed action would therefore constitute a cumulative effect. However, this effect is so small as to be negligible, and therefore insignificant.

The analysis of effects of the proposed action on biological resources (including plants, noxious and invasive weeds, wildlife, and threatened and endangered species), and cultural resources (including those pertaining to Native American Religious Concerns) indicated that effects on these elements would be minor and insignificant. However, other temporary wind resource testing facilities are being developed in the Western Mojave Desert and throughout Southern California. These masts contribute to the overall increase in interest in alternative energy sources. Cumulative effects of the proposed action on these elements would not be adverse for the following reasons.

- The meteorological masts are small, temporary, and can be installed and removed in a relatively short time, without permanent effect to the environment.
- All wildlife species determined to be present within the four met mast sites were commonly occurring species and included lizards, birds, and mammals.
- No threatened or endangered plants or wildlife were found as a result of reconnaissance-level surveys.
- The prehistoric isolate found at the site for the proposed action does not qualify as historic properties under NHPA because it lacks contextual integrity and is unlikely to meet the criteria of significance.

Finding of No Significant Impact

**BUREAU OF LAND MANAGEMENT
CASE RECORDATION
(LIVE) SERIAL REGISTER PAGE**

Run Date/Time: 01/20/11 10:25 AM

Page 1 of 2

01 10-21-1976;090STAT2776;43USC1761

Total Acres
4,030.570

Serial Number
CACA-- - 048689

Case Type 283002: ROW-WIND PROJ TEST
Commodity 974: WIND ENERGY FACILITIES

Case Disposition: AUTHORIZED Case File Juris: BARSTOW FIELD OFFICE

Serial Number: CACA-- - 048689

Name & Address

Name & Address	Int Rel	%Interest
BLACK LAVA BUTTE RENEWABLES PO BOX 54	REDLANDS CA 923730021	PREVIOUS INT PAF 100.000000000
DESERT MESA POWER LLC 421 SW 6TH AVE STE 1000	PORTLAND OR 972041629	HOLDER/BILLEE 100.000000000
RENEWERGY LLC PO BOX 54	REDLANDS CA 923730021	PREVIOUS INT PAF 100.000000000
SIERRA RENEWABLES LLC 30712 E SUNSET DR S	REDLANDS CA 92373	PREVIOUS INT PAF 100.000000000

Serial Number: CACA-- - 048689

Mer Twp Rng	Sec	SType	Nr Suff	Subdivision	District/Field Office	County	Mgmt Agency
27	0010N	0050E	004	ALL	ENTIRE SECTION	CDD-BARSTOW FLD OFC	SAN BERNARDI BUREAU OF LAND MG
27	0020N	0050E	019	ALIQ	SE;	CDD-BARSTOW FLD OFC	SAN BERNARDI BUREAU OF LAND MG
27	0020N	0050E	020	ALIQ	SW,S2SE;	CDD-BARSTOW FLD OFC	SAN BERNARDI BUREAU OF LAND MG
27	0020N	0050E	029	ALIQ	SW,N2;	CDD-BARSTOW FLD OFC	SAN BERNARDI BUREAU OF LAND MG
27	0020N	0050E	030	ALL	ENTIRE SECTION	CDD-BARSTOW FLD OFC	SAN BERNARDI BUREAU OF LAND MG
27	0020N	0050E	031	ALL	ENTIRE SECTION	CDD-BARSTOW FLD OFC	SAN BERNARDI BUREAU OF LAND MG
27	0020N	0050E	032	ALL	ENTIRE SECTION	CDD-BARSTOW FLD OFC	SAN BERNARDI BUREAU OF LAND MG
27	0020N	0050E	033	ALIQ	S2,S2N2;	CDD-BARSTOW FLD OFC	SAN BERNARDI BUREAU OF LAND MG

Serial Number: CACA-- - 048689

Act Date	Code	Action	Action Remarks	Pending Office
01/09/2007	124	APLN RECD		
01/10/2007	669	LAND STATUS CHECKED		
01/12/2007	048	STATE APLN FILED		
01/12/2007	049	BLM POINT OF CONTACT	CDD-CA;	
03/01/2007	500	GEOGRAPHIC NAME	JPATROVSKY;	
04/01/2007	429	APLN ACKNOWLEDGED	BLACK LAVA BUTTE;	
04/01/2007	845	CAT 6 COST RECOVERY-PROC	\$5902.16;1	
05/01/2007	045	PROJECT NAME	BLACK LAVA BUTTE;	
05/02/2007	501	REFERENCE NUMBER	L5101FXB09B2500;	
06/15/2007	004	NEPA ANALYSIS INITIATED	CA680-07-0025;	
06/21/2007	104	ADDTL INFO RQSTD	MAPS/MET LOCATIONS;	
06/21/2007	971	COST RECOV (PROC) RECD	\$5902.16;2	
07/15/2007	103	ADDTL INFO RECD	MAP OF MET SITES;	
08/02/2007	104	ADDTL INFO RQSTD	EA & SURVEYS;	
08/03/2007	110	APLN COMPLETE		
11/07/2007	428	NOTIFICATION GIVEN		
02/20/2008	002	EA INITIATED	TRIBAL LETTERS SENT;	
02/20/2008	103	ADDTL INFO RECD	SAPPHOS;	
03/02/2008	103	ADDTL INFO RECD	EA/REVISED MET LOCAT;	
03/24/2009	104	ADDTL INFO RQSTD	BIO/CULT REPORTS;	
09/30/2009	104	ADDTL INFO RQSTD	SEASON FLORA SURVYS;	
12/03/2009	103	ADDTL INFO RECD	CORRIDOR LTR;	
02/16/2010	114	AMEND/CORR APLN RECD	NAME CHANGE;	
06/01/2010	104	ADDTL INFO RQSTD	ACKNOWLEDGE NAME CHG;	
06/14/2010	103	ADDTL INFO RECD	REVISED EA/BIO RPT;	
08/06/2010	008	EA APPROVED	EA	
08/11/2010	241	AUTH OFFERED APPLICANT	FONSI;	
08/11/2010	315	RENTAL RATE DET/ADJ	3 YR TERM;	
			\$1.00/ACRE;	

NO WARRANTY IS MADE BY BLM
FOR USE OF THE DATA FOR
PURPOSES NOT INTENDED BY BLM

**BUREAU OF LAND MANAGEMENT
CASE RECORDATION
(LIVE) SERIAL REGISTER PAGE**

Run Date/Time: 01/20/11 10:25 AM

Page 2 of 2

08/11/2010	883	CAT 8 COST RECOVERY-MON	\$4267;1
09/13/2010	065	COST RECOV (MON) RECD	\$4267.00;1
09/13/2010	111	RENTAL RECEIVED	\$1345.84;1
09/14/2010	376	BOND FILED	\$12,000;1
09/14/2010	909	BOND ACCEPTED	CAB000306;
09/15/2010	393	DEC ISSUED	3YRTERM;
09/16/2010	307	ROW GRANTED-ISSUED	TYPE II WIND GRANT;
11/16/2010	140	ASGN FILED	DESERTMESA POWER;
11/19/2010	841	CAT 2 COST RECOVERY-PROC	\$392.00;1
11/29/2010	007	CX DETERMINED	
12/06/2010	006	CX INITIATED	CXCA680-11-0030;1
12/06/2010	241	AUTH OFFERED APPLICANT	REVISED GRANT/STIPS;
12/06/2010	971	COST RECOV (PROC) RECD	\$392.00;1
12/07/2010	005	NEPA ANALYSIS APPROVED	
12/27/2010	111	RENTAL RECEIVED	\$4030.67;1
01/03/2011	600	RECORDS NOTED	
01/13/2011	139	ASGN APPROVED	
09/16/2013	763	EXPIRES	

Line Nr Remarks

Serial Number: CACA-- - 048689

0001	WIND STUDY PROJECT- BLACK LAVA BUTTE
0002	4 METS FOR THREE YEAR TERM
0003	RENEWAL SUBJECT TO POD & APPLICATION 120 DAYS PRIOR
0004	CASH BOND REQUIRED \$3,000/MET;\$12K TOTAL
0005	INSTALL BY HELICOPTER CONFIRMED 11/2009
0006	UTILITY CORRIDOR CONFLICT LETTER SENT 12/09
0007	TRIBES INFORMAL CONSULT 05/09 DONE
0008	NAME CHANGED TO BLACK LAVA BUTTE RENEWABLES LLC
0009	ASSIGNMENT-DESERT POWER LLC C/O ELEMENT POWER

RESOLUTION NO. 07-19

A RESOLUTION OF THE TOWN COUNCIL, OF THE TOWN OF
YUCCA VALLEY, CALIFORNIA, OPPOSING THE
CONSTRUCTION OF HIGH TENSION POWER TRANSMISSION
LINES IN THE MORONGO BASIN

WHEREAS, the Yucca Valley Town Council supports the use of renewable resources and encourages programs that reduce greenhouse gas emissions, and also places a high value on preserving and protecting the natural resources of the California desert; and

WHEREAS, the residents of Yucca Valley are aware of a proposal to build a "green path" of high tension power lines in and around the Morongo Basin in order to achieve energy conservation objectives in Los Angeles, Riverside, Imperial and San Diego Counties; and

WHEREAS, construction of the proposed "green path" project is likely to have immediate and long-term detrimental impacts on the local flora, fauna, viewshed and quality of life with no apparent benefit to Yucca Valley residents; and

WHEREAS, the local community has expressed strong concern that agencies in larger metropolitan areas are making decisions and proposing solutions that will have serious negative impacts on the Morongo Basin;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA RESOLVES AS FOLLOWS.

That it opposes the installation of high tension power transmission lines in and around the Morongo Basin as proposed by the Los Angeles Department of Water and Power.

APPROVED AND ADOPTED this 14th day of June, 2007.



MAYOR

ATTEST:



TOWN CLERK

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

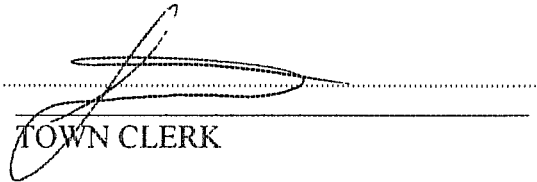
I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California do hereby certify that Resolution No. 07-19 was duly and regularly adopted by the Town Council of the Town of Yucca Valley, California, at a meeting thereof held on the 14th day of June, 2007, by the following vote:

AYES: Council Members Herbel, Leone, Luckino, Mayes and Mayor Neeb

NOES: None

ABSTAIN: None

ABSENT: None


TOWN CLERK

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Mark Nuaimi, Town Manager
Date: November 1, 2012
For Council Meeting: November 6, 2012
Subject: Replacement Animal Shelter
ACJPA Project No. 1
Approve Bid Process, Contract Award,
Town Construction Management/Specialized Inspections

Prior Council Review: The Council delegated authority to the ACJPA to approve the plan and specifications and authorize staff to advertise and receive bids at the meeting of May 15, 2012. Council also directed that a complete funding package be brought back to the Town Council.

Recommendation: That the Town Council:

1. Reviews and approves the JPA's competitive bid process for the construction of the Animal Shelter, including, but not limited to the proposed consent to withdrawal of bid by R.C. Construction Services, Inc., based upon the findings further described below;
 - A. R.C. Construction Services Inc., made a clerical mistake establishing an incorrect bid amount for Metal Buildings;
 - B. R.C. Construction Services, Inc. gave the ACJPA written notice within five working days, excluding Saturdays, Sundays, and state holidays, after the opening of the bids of the mistake, and specified in the letter in detail how the clerical mistake occurred by failure to include an additional \$400,000 in metal building costs.
 - C. The clerical mistake made by R.C. Construction Services, Inc. is materially different than R.C. Construction Services, Inc. intended by the failure to include \$400,000 in Metal Buildings costs that were not included in the bid item due to the clerical mistake;
 - D. The clerical mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work, or in reading the plans or specifications

Reviewed By:


Town Manager

Town Attorney

Mgmt Services

Dept Head

<input checked="" type="checkbox"/> Department Report	<input type="checkbox"/> Ordinance Action	<input type="checkbox"/> Resolution Action	<input type="checkbox"/> Public Hearing
<input type="checkbox"/> Consent	<input type="checkbox"/> Minute Action	<input type="checkbox"/> Receive and File	<input type="checkbox"/> Study Session

2. Approve Second Amendment to the ACJPA Agreement that increases Total Project Cost called out in the ACJPA Agreement from \$3.5 to \$3.75 million; and
3. Approve Second Amendment to the ACJPA Agreement that defines:
 - a. Attachment A - Proposed Work Plan
 - b. Attachment B - Joint Funded Animal Shelter Project
 - c. Attachment C - Operational Agreement,
 - d. Attachment D – Co-Ownership Agreement,
4. Recommends that the Town Council approve the JPA's proposed award of the "Base Bid" construction contract to Facility Builders and Erectors, Inc., in the amount of \$2,849,400.00, and the "Bid Alternate B" construction contract in the amount of \$31,800.00; and
5. Recommends that the Town Council approve the JPA's proposed authorization of a Construction Contingency in the amount of \$391,294 (14% of construction costs); and
6. Recommends that the Town Council accept Town staff's proposal for Construction Management and Specialized Inspection Services; and
7. Recommends that the Town Council approve the JPA's proposal that unused Construction Contingency be budgeted against one-time start-up costs for the replacement animal shelter. Such expenditure will be brought to the JPA Board for prior approval; and
8. Approve Co-Ownership Agreement in form as presented in the JPA Second Amendment (Attachment D); Authorize the Town Manager and Town Attorney to make non-substantive modifications to finalize such agreement and its Exhibits to final form; and to authorize the Mayor to execute the final agreement on behalf of the Town.
9. Approve the fifth amendment to Contract (No. 08-1152) between the County of San Bernardino and the Town of Yucca Valley for providing Animal Shelter Services for FY 2013/14

Executive Summary: The Animal Control Joint Powers Authority (ACJPA) proposes to develop a replacement animal shelter on a five acre parcel located directly to the south of the existing Yucca Valley Animal Shelter. The replacement animal shelter will serve both the incorporated areas of the Town of Yucca Valley ("Town"), as well as, the unincorporated areas of the County of San Bernardino. The facility will include three, new single story buildings of approximately 7,241 enclosed square feet along with 5,655 square feet of covered animal enclosures. Parking areas will be constructed to accommodate parking for staff, public and shelter vehicles. Other pathways and service roads will be created to facilitate reliable and safe access. Landscaping and lighting will be developed throughout the project area, including the parking area. Lighting for the animal shelter will be developed to Town's standards. The property where the new animal shelter will be built is vacant.

Order of Procedure:

- Request Staff Report
- Request Public Comment
- Town Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Roll Call Vote)

Discussion: On September 18, 2012, staff received 8 bids for ACJPA Project No.1 as follows:

Bidder	Base Bid	Bid Alternate A	Bid Alternate B	Total
R.C. Construction Services, Inc.*	\$2,769,000.00	\$46,352.00	\$10,737.45	\$2,826,089.00
Facility Builders and Erectors, Inc.	\$2,849,400.00	\$38,665.00	\$31,800.00	\$2,919,865.00
Hamel Contracting	\$2,880,506.00	\$63,756.00	\$11,000.00	\$2,955,262.00
Dalke and Sons Construction	\$2,959,729.00	\$17,500.00	\$12,000.00	\$2,971,731.00
Avi-Con, Inc.	\$3,147,034.00	\$47,000.00	\$37,000.00	\$3,231,034.00
RDP/SCI, Inc.	\$3,207,905.00	\$44,440.00	\$48,884.00	\$3,301,229.00
Doug Wall Construction, Inc.	\$3,494,142.00	\$52,578.00	\$41,147.00	\$3,587,867.00
Harbor Construction	\$3,638,000.00	\$38,000.00	\$44,000.00	\$3,720,000.00

*Bid Withdrawn

The apparent low bidder at the time of bid opening, R.C. Construction Services, Inc. submitted a letter to the JPA officially withdrawing their bid. The letter states that a clerical error in bid item #51, Metal Buildings, occurred when the clerk entered \$46,200.00 instead of \$463,295.00. The letter was submitted to the JPA within the mandatory 5 day period following bid opening. As such, upon consent by the JPA Board, R.C. Construction Services', Inc., bid will be formally withdrawn from consideration.

The Base Bid for the project involves site grading, installation of prefabricated metal buildings, utilities, parking lot, electrical, site construction, landscaping, and irrigation. Alternate Bid A for the project involves the installation of an artificial turf in the "get acquainted" area. Alternate Bid B for the project involves the installation of heating pipes in the concrete floors of the kennels.

At their meeting of October 25, 2012, the ACJPA Board concurred that R.C. Construction Services', Inc., bid be formally withdrawn from consideration and determined the lowest responsible bidder to be Facility Builders and Erectors, Inc. of Anaheim, California, with a Base bid of \$2,849,400. The following additive alternates were bid with the project.

Additive Alternate A:	Artificial Turf:	\$38,665.00
Additive Alternate B:	Heating Pipes:	\$31,800.00

Staff has reviewed all 8 bid packages, and confirmed that Facility Builders and Erectors, Inc. is a responsible and responsive bidder. If the JPA's competitive process is approved by the Town Council and the County Board of Supervisors, and a construction contract is ultimately awarded by the ACJPA, construction is anticipated to begin in January 2013, and be substantially complete by October 2013.

Construction Management Activity: As one part of the Town's contributions to the project, the Town is proposing to provide construction management services. These costs have been included in the project cost estimates, and are established at 1% of construction costs, or slightly under \$29,000.

Under the Town's purchasing policies, the Town has received a proposal for the specialized inspection and testing services required for the project. The Town will facilitate the provision of these services as part of the construction management operations, and the costs related to the specialized inspection and testing services are included as part of the Town's contribution and are reflected in the total project cost estimate as well.

Animal Control JPA Agreement (Amendment #2):

On November 18, 2008, the Town and the County joined contractually through an Agreement, to create the Animal Care Joint Powers Authority for purposes called out in that agreement, primarily the design and construction of a replacement animal shelter. Within that agreement, the County and Town had previously arrived at a total project cost estimate of \$3.5 million. The agreement established a 50/50 share of costs for the replacement shelter and required equal payments by both the Town and the County to fully fund the construction fund.

Since that time, the ACJPA has overseen the design and bidding of the replacement shelter, attempting to remain within the cost estimate of the original agreement. The Town made its first deposit of \$437,500 after receiving council authorization on December 1, 2009. Since that time, the Town and County have acknowledged that the impacts of the recession have not allowed the Town to fulfill its funding obligations under the terms of the original JPA Agreement. Nonetheless, the County identified available capital funds to bring the ACJPA account to the \$3.5 million estimated funding level, allowing the Town to fund a significant portion of its share of the project using Operational Services Credits over a period of 20 years.

Since that time, Town and County staff, along with the ACJPA board, continued the design activity and the project is now ready for construction award.

In order to award the construction contract, both the County Board of Supervisors and the Town Council will be required to increase the total project cost called out in the ACJPA Agreement from \$3.5 million to \$3.75 million. This amount includes a 14% contingency amount as shown in the following table.

Description	Amount	Vendor
TOTAL COST	\$ 3,750,000	
Design Architect Contract	\$ 299,276	Williams Architect - base contract and change orders
Project Management Costs	\$ 37,192	Town Provided Services – Fixed Price Proposal
Biological Assessment – Tortoise	\$ 11,500	Circle Mountain Biological Consultants
Fire Department Plan Check Services	\$ 3,157	County of San Bernardino
Town Plan Check/Inspection Services	\$ 10,594	Charles Abbott Associates
Electrical Services Extension	\$ 6,975	Southern California Edison (estimate)
Specialized Inspections	\$ 40,000	Engineer's Estimate
Water Service extension / hydrants	\$ 40,000	Engineer's Estimate
Construction Contract	\$ 2,881,200	Lowest, Responsible, Base Bid + Alternate B
Construction Management	\$ 28,812	Alex Qishta Time (1% of construction contract)
Construction Contingency	\$ 391,294	
Base Bid	\$ 2,849,400	
Alt B	\$ 31,800	
Base Bid + Alt B	\$ 2,881,200	
Contingency (%)	13.6%	

Additionally, Town and County staff have evaluated the ACJPA Agreement and are recommending considerable changes to that agreement. When originally structured, the ACJPA was going to remain as a permanent entity that would manage the Animal Shelter operation and perhaps become a model for the County to expand into other parts of San Bernardino County. Under that model, Town employees would have become ACJPA staff and the Town's financial responsibilities would have remained 50% of the costs of the facility operations. Both the Town and County staff are recommending that the ACJPA be dissolved upon completion of the replacement shelter construction and that the shelter services continue to be provided under Town control.

To accommodate the increase in total project cost and the financial structure, the Town Council and County Board of Supervisors are being asked to consider the following:

1. Approve Second Amendment to the ACJPA Agreement that increases Total Project Cost called out in the ACJPA Agreement from \$3.5 to \$3.75 million;
2. Approve Second Amendment to the ACJPA Agreement that defines:
 - a. Attachment A - Proposed Work Plan includes the activity required to construct the Replacement Animal Shelter
 - b. Attachment B - Joint Funding Agreement, sets forth the main obligations and processes for the construction and funding plan in which the Members agree to jointly fund the Animal Care and Control Facility with the Town making contributions to fund fifty percent (50%) of this capital improvement project over a twenty (20) year period as outlined
 - c. Attachment C - Operational Agreement, represents a draft operational plan after construction of the Animal Care and Control Facility is completed.
 - d. Attachment D – Co-Ownership Agreement, sets forth the Members agreement reflecting ownership interests in the new Animal Care and Control Facility upon any termination of this Agreement

Animal Shelter Services Contract No. 08-1152 (Amendment #5):

Facility start-up needs are being finalized. Town and County staff are recommending Amendment #5 be approved to extend the current service contract through June 30, 2014 and to include these start-up costs in the FY 13/14 operating budget for the replacement shelter. Town and County staff are recommending that these be funded first from residual contingency funding should such funds be available.

Any such funding utilized will reduce the associated line item included in the FY 13/14 operational budget. Staff recommends that any expenditure of contingency funds for facility start-up costs be brought to the ACJPA board for review / approval.

Fiscal impact: The Project Engineer's cost estimate for the project (base bid) was \$3,100,000.00, \$40,000.00 for alternate bid A (artificial turf), and \$40,000.00 for alternate bid B (heating pipes), without contingency.

The ACJPA approved Staff's recommendation awarding of the Base Bid and Bid Alternate "B". Additionally, Town and County staff have compiled a complete list of project expenses, shown below. Based upon the recommended action, the total cost for the Replacement Shelter will be \$3,750,000 (including contingency).

The Town's funding commitment to the project comes in the form of near-term Town Contributions (funding Town already deposited with the Authority, contributed assets in the form of property, provided in-kind services, and paid or will pay direct expenses associated with the design and construction of the Facility), future year Operational Service Credits, and making further Town Contributions, via a direct monetary payment as permitted by law.

The anticipated Town Contributions are shown in the following:

Description	Amount	
TOTAL CONTRIBUTION/CREDIT	\$ 795,730	
Project Management Costs	\$ 37,192	Town Provided Services -- Fixed Price Proposal
Biological Assessment -- Tortoise	\$ 11,500	Circle Mountain Biological Consultants
Fire Department Plan Check Services	\$ 3,157	County of San Bernardino
Town Plan Check Services	\$ 10,594	Charles Abbott Associates
Electrical Services Extension	\$ 6,975	Southern California Edison (estimate)
Soils Testing	\$ -	Included in Specialized Inspections
Specialized Inspections	\$ 40,000	Engineer's Estimate
Water Service extension / hydrants	\$ 40,000	Engineer's Estimate
Town Deposit to JPA	\$ 437,500	funds deposited with JPA
Land Purchase	\$ 60,000	credited to Town
Current Shelter value	\$ 60,000	credited to Town
Development Impact Fees	\$ -	Source for Specialized Inspections / Water Service
Cyla Wells Estate Donation	\$ 60,000	to be deposited with JPA
Construction Management	\$ 28,812	Alex Qishta Time (1% of construction contract)

This recommendation requires Town Council authorization to commit approximately \$90,000 from Town Public Facility Development Impact Fees (for SCE service, Specialized Inspections, and Water Service Extension) and a \$60,000 deposit to the ACJPA from the Cyla Wells Estate Donation. This deposit with the ACJPA would only occur if project contingency is required to complete the shelter construction.

The Operational Services Credit schedule (shown next page) demonstrates how the Town's Operational Services Credit will accrue over a 20-year period in exchange for the Town's annual increase in ownership of the Facility.

20-year Operational Services Credit Schedule					
Fiscal Year	Operational Services Credit Annual Amount	Total Town Contribution	Town Ownership %		
		\$ 795,730.00	21%	Total Costs	\$ 3,750,000
2014-15	\$ 53,963.50	\$ 849,693.50	23%		
2015-16	\$ 53,963.50	\$ 903,657.00	24%	Town Share	\$ 1,875,000 50%
2016-17	\$ 53,963.50	\$ 957,620.50	26%	Town Contributions	\$ (795,730)
2017-18	\$ 53,963.50	\$ 1,011,584.00	27%		
2018-19	\$ 53,963.50	\$ 1,065,547.50	28%	Town Balance	\$ 1,079,270
2019-20	\$ 53,963.50	\$ 1,119,511.00	30%		
2020-21	\$ 53,963.50	\$ 1,173,474.50	31%		
2021-22	\$ 53,963.50	\$ 1,227,438.00	33%		
2022-23	\$ 53,963.50	\$ 1,281,401.50	34%		
2023-24	\$ 53,963.50	\$ 1,335,365.00	36%		
2024-25	\$ 53,963.50	\$ 1,389,328.50	37%		
2025-26	\$ 53,963.50	\$ 1,443,292.00	38%		
2026-27	\$ 53,963.50	\$ 1,497,255.50	40%		
2027-28	\$ 53,963.50	\$ 1,551,219.00	41%		
2028-29	\$ 53,963.50	\$ 1,605,182.50	43%		
2029-30	\$ 53,963.50	\$ 1,659,146.00	44%		
2030-31	\$ 53,963.50	\$ 1,713,109.50	46%		
2031-32	\$ 53,963.50	\$ 1,767,073.00	47%		
2032-33	\$ 53,963.50	\$ 1,821,036.50	49%		
2033-34	\$ 53,963.50	\$ 1,875,000.00	50%		

Alternatives:

1. Reject all bids and authorize the ACJPA Clerk to re-advertise a reduced scope ACJPA Project No.1; or
2. Provide alternative direction to staff.

Attachments:

R.C. Construction Bid Withdrawal Letter
Bidders Summary List
Facility Builders and Erectors, Inc. Bid Package
ACJPA Original Agreement (Nov 2008)
Town Council Agenda – December 1, 2009
Second Amendment to JPA Agreement including
Attachment A -- Proposed Work
Attachment B - Joint Funded Animal Shelter Project,
Attachment C - Operational Agreement
Attachment D - Joint Ownership Agreement
Contract (No. 08-1152) Amendment #5

R.C. Construction Bid Withdrawal Letter



R. C. Construction Services, Inc.

Lic # 716719
2223 N. Locust Ave
Rialto, CA 92377

Telephone (909) 829-3688
Fax (909) 829-3696

September 19, 2012

Sent via email, fax & certified mail

Alex Qishta P.E.
Town of Yucca Valley
Community Development Department
Engineering Division
58928 Business Center Dr.
Yucca Valley, CA 92284

Re: Notice of Bid Withdrawal – Animal Care Joint Powers Authority Yucca Valley Animal Shelter.

Dear Mr. Qishta:

After reviewing our proposal submitted on the Yucca Valley Animal Shelter for the Animal Care Joint Powers Authority prepared by the Town of Yucca Valley Community Development Department Engineering Division on September 18, 2012, it has come to our attention that a clerical error was made while computing our line items particularly the metals line item #51. Although R.C Construction will stand by all other combinations of our Base Bid, the mistake that was made to our bid is materially different than we intended it to be.

Specifically, line item #51 should have read \$463,295.00 including the pre-fabricated metal buildings however it was transcribed as \$46,200.00 on our Bid Form. This error was not due to an error in our judgment but clerical input made at the time of bid.

If you have any further questions pertaining to this issue please do not hesitate to call.

Sincerely,

Jason Hale
General Contracting Estimator
R.C. Construction Services, Inc.

C.C. // Bob Clapper, Marie Updegrove

Bidders Summary List

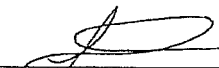
TOWN OF YUCCA VALLEY
 BID OPENING LOG SHEET

BID OPENING DATE: September 18, 2012, 3:00 p.m.

PROJECT DESCRIPTION: Animal Shelter

BIDDER:	BID AMOUNT	BID BOND
1. <u>Core Wall Const</u>	<u>3,494,142</u>	<u>10%</u>
2. <u>Facility Builders & Creators</u>	<u>2,849,400</u>	<u>10%</u>
3. <u>Hamel Contractors, Inc.</u>	<u>2,880,506</u>	<u>10%</u>
4. <u>RDP/Sci Inc.</u>	<u>3,207,905.47</u>	<u>10%</u>
5. <u>Robert Clapp Const</u>	<u>2,769,000</u>	<u>10%</u>
6. <u>Dalke & Sons</u>	<u>2,959,779</u>	<u>10%</u>
7. <u>Avi-con dev</u>	<u>3,147,034</u>	<u>10%</u>
8. <u>Hansen Const</u>	<u>3,638,000</u>	<u>10%</u>
9. _____	_____	_____
10. _____	_____	_____

CC: Town Clerk's Staff (1)
 Initiating Department (2)
 Town Manager (1)

Signed: 
 Dated: 9/18/2012

Facility Builders and Erectors, Inc. Bid Package

ANIMAL CARE JOINT POWERS AUTHORITY

PROPOSAL

FOR

**YUCCA VALLEY ANIMAL SHELTER
ACJPA PROJECT NO. 1**

CONTRACTOR'S PROPOSAL

FACILITY BUILDERS & ERECTORS, INC.
Company
3940 E. MIRALOMA AVENUE
Address
ANAHEIM, CA 92806
714-577-8060
Telephone Number
670072
State License Number

Animal Care Joint Powers Authority
In care of the Town of Yucca Valley
Office of the Town Clerk, Town Hall
57090 29 Palms Highway
Yucca Valley, CA 92284

Ladies and Gentlemen:

Pursuant to the Public Notice inviting bids or proposals, the undersigned declares that he has carefully examined the location of the proposed work, that he has examined plans, profiles, specifications, and other contract documents for ACJPA Project No. 1, Yucca Valley Animal Shelter and read the accompanying proposal requirement, and hereby proposes to furnish all materials and do all work required to complete the said work in accordance with said plans, profiles, specifications, and special provisions for the unit or lump sum price set forth in the Schedule of Work Items (Bidding Form).

Unless otherwise specified by the Contractor, the listing of an Item No. of Work shall be conclusive evidence that the subcontractor proposed to perform the Item of Work shall perform the entirety of the work for that Item No. of Work.

All persons or parties submitting a bid proposal on the project shall complete the following form setting forth the Item Number (as specified in the "Schedule of Work Items"), the name, location, and place of business of each subcontractor who will perform work or labor or render services to the prime Contractor in or about the construction of the work of improvements, or a subcontractor licensed by the State of California, who, under subcontract to the prime Contractor, specially fabricates and installs a portion of the work or improvements according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent (1/2%) of the prime Contractor's total bid, or, if the bid is for the construction of streets or highways, including bridges, in excess of one-half of one percent (1/2%) of the prime Contractor's total bid or ten thousand dollars (\$10,000.00), whichever is greater.

It is noted that if a Contractor fails to specify a subcontract for any portion of the work to be performed under the Contract, he shall be deemed to have agreed to perform such portion himself, and he shall not be permitted to subcontract that portion of the work except by written consent of the awarding authority. The requirement of the submission of this list, the legal consequences for failure of the Contractor to do so, and other particular details concerning the same shall be as set forth in the "Subletting and Subcontracting Fair Practices Act", California Public Contract Code (§ 4100, et seq.) to which the bidder is hereby referred.

Item No. of Work	Name of Firm or Contractor	Location of Mill, Shop, or Office	Contractor Classification (if applicable)	Town of Yucca Valley Business License No. *
9-GRADING & CLEARING				
10-ASPHALT	HAITBRINK ASPHALT	CORONA, CA	A, C12	
12-17 SITE CONCRETE	MONTALVO CONCRETE	FONTANA, CA	C8	
18-25 SITE UTILITIES	NU-CAL PIPELINE- KELLEY'S UNDER GROUND	RIVERSIDE, CA APPLE VALLEY CA	A (W)	
26-44 LANDSCAPE	UNIQUE LANDSCAPE- UNITED GLT	YUGGA VALLEY, CA YUCCA VALLEY	(W) C27	
46-48 FENCING	A & A FENCE	BANNING, CA	C13	
49 BLDG CONCRETE	TOTAL QUALITY CONSTRUCTION	BEAUMONT, CA	B, C8	

* All Subcontractors are required to obtain a Town of Yucca Valley Business License before a Notice to Proceed may be Issued.

The undersigned further agrees that in case of default in executing the required contract with necessary bonds within ten (10) calendar days after the notice of award of contract has been mailed, the proceeds of the check or bond accompanying his bid shall become the property of the ACJPA. If the AC JPA awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the ACJPA to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder. The undersigned further agrees to complete the work within Three Hundred (300) calendar days from specified starting date in the Notice to Proceed.

Item No. of Work	Name of Firm or Contractor	Location of Mill, Shop, or Office	Contractor Classification (If applicable)	Town of Yucca Valley Business License No. *
50 MASONRY	RH MASONRY	ANAHEIM, CA	C29	
51 METAL	FACILITY BUILDERS & ERECTORS, INC.	ANAHEIM, CA	A,B,C51	
52-53 PLASTIC LAMINATE	QUALITY FIRST WOODWORK F AND R INTERIOR WOOD WORKS, SANDIMAS	ANAHEIM, CA	C6 (C6)	
60-64 GLASS	ACTIVE GLASS- E. AND R. GLASS	LOS ANGELES, CA- MONTECLAIR, CA	C17 (C17)	
66 FRAMING DRYWALL	GKJ, INC.	ANAHEIM, CA	B	
67 STUCCO	TRIPLE H PLASTERING	ONTARIO, CA	C35	

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Item No. of Work	Name of Firm or Contractor	Location of Mill, Shop, or Office	Contractor Classification (if applicable)	Town of Yucca Valley Business License No. *
68-T-BAR	ERG, INC. CG ACUSTICS	ANAHEIM, CA CANYON LAKE, CA	B CW	
69-70 FLOORING	DEL'S FLOORING	PALM DESERT, CA	C15	
72-73 PAINTING	INDUSTRIAL COATING J KEL PAINTING	ETIWANDA, CA CORONA CA	C93 CW	
81-83 HVAC	FRANKLIN MECHANICAL	BEAUMOUNT, CA	C20	
84-85 PLUMBING	DIAMOND VALLEY PLUMBING	HEMET, CA	C36	
86-90 ELECTRICAL	GROUNDS-ELECTRIC DAVE WILLIAMS	RIVERSIDE, CA LA QUINTA CA	C18 CW	

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The undersigned further agrees that in case of default in executing the required contract with necessary bonds within ten (10) calendar days after the notice of award of contract has been mailed, the proceeds of the check or bond accompanying his bid shall become the property of the ACJPA. If the AC JPA awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the ACJPA to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder. The undersigned further agrees to complete the work within Three Hundred (300) calendar days from specified starting date in the Notice to Proceed.

BIDDING FORM

Yucca Valley Animal Shelter

Name of Bidder: FACILITY BUILDERS & ERECTORS, INC.

The undersigned, having examined the proposed Contracts and having visited the site and examined the conditions affecting the work, hereby and agrees to furnish all labor, materials, equipment, and appliances, and perform operations necessary to complete the work as required by said proposed Contract Documents, excluding work of alternates for.

BID SCHEDULE OF WORK ITEMS

ITEM NO.	DESCRIPTION	QUANTIT Y	UNIT	UNIT PRICE	SUBTOTAL
	GENERAL				
1	General Overhead and Mobilization and Demobilization	1	LS	80,000	80,000
2	Traffic Control and Safety	1	LS	10,000	10,000
3	Potholing	1	LS	2,500	2,500
4	Clearing and Grubbing	1	LS	11,000	11,000
5	Stormwater Pollution Prevention/Erosion Control	1	LS	15,000	15,000
6	Construction Survey	1	LS	8,000	8,000
7	Pavement Markers, Markings, Legends, Striping and Signage's	1	LS	3,500	3,500
8	Construction Sign	2	EA	700	1,400
	GRADING IMPROVEMENTS				
9	Grading	1	LS	55,000	55,000
10	3" A.C. over 95% min. compacted subgrade	550	Ton	115.00	63,250
11	Furnish and Install Decomposed Granite	8500	SF	6.50 6.50	55,250
12	Construct Commercial Driveway	3	EA	1,500	4,500
13	Construct 6" P.C.C. Curb	250	LF	20.	5,000
14	Construct 6" P.C.C. Curb and 18" Gutter	300	LF	30	9,000
15	Construct P.C.C. Walk	5000	SF	8	40,000
16	Construct P.C.C. Sidewalk	5000	SF	10	50,000

ITEM NO.	DESCRIPTION	QUANTIT Y	UNIT	UNIT PRICE	SUBTOTAL
17	Construct ADA Access Ramp	2	EA	1,000	2,000
18	Furnish and Install 4' SDR-35 PVC Drain Pipe	400	LF	18	7,200
19	Furnish and Install 12"x12" Drain Box with Grate	6	EA	800	4,800
20	Furnish and Install Septic Tank System with Leach Lines	1	LS	50,000	50,000
21	Construct Retention Basin	1	LS	5,000	5,000
22	Furnish and Install 6" Class 150 C900 PVC Fire Line	600	LF	30	18,000
23	Furnish and Install 6" Fire Hydrant Assembly	2	EA	6,000	12,000
24	Furnish and Install 2" Domestic Water Backflow Preventer	2	EA	2,500	5,000
25	Furnish and Install Double Check Valve Assembly	1	EA	9,000	9,000
IRRIGATION AND PLANTING					
26	Furnish and Install Irrigation Controller with Enclosure	1	LS	11,000	11,000
27	Construct Concrete Walk	1300	SF	50	6,500
28	Construct Concrete Dry Stream Bed	1	LS	20,000	20,000
29	Furnish and Install Sodded Turf	4000	SF	4.50	18,000
30	Furnish and Install Irrigation	1	LS	33,000	33,000
31	Furnish and Install 24" Box - Thornless Palo Verde	3	EA	600	1,800
32	Furnish and Install 24" Box - Grape Myrtle	3	EA	600	1,800
33	Furnish and Install 24" Box - Afghan Pine	7	EA	600	4,200
34	Furnish and Install 24" Box - Thornless Honey Mesquite	3	EA	600	1,800
35	Furnish and Install 5 Gallon - Grey Desert Spoon	15	EA	100	1,500
36	Furnish and Install 5 Gallon - Gold Cost Juniper	6	EA	100	600
37	Furnish and Install 5 Gallon - Spanish Lavender	2	EA	100	200
38	Furnish and Install 5 Gallon - Texas Needle Grass	7	EA	100	700

ITEM NO.	DESCRIPTION		QUANTIT Y	UNIT	UNIT PRICE	SUBTOTAL
39	Furnish and Install 5 Gallon – Texas Sage		8	EA	100	800
40	Furnish and Install 5 Gallon – Scarlet Bugler		8	EA	100	800
41	Furnish and Install 5 Gallon – Sugar Bush		41	EA	100	4,100
42	Furnish and Install Bench		3	EA	1,000	3,000
43	Furnish and Install Trash Receptacle		2	EA	750	1,500
44	Relocate Existing Native Tree		60	EA	400	24,000
GENERAL REQUIREMENTS						
45	01000	General Conditions to the Contract Documents	1	LS	150,000	150,000
DIVISION 2 - SITE CONSTRUCTION <i>Description: The items in this category include, but are not limited to site grading, utilities and hardscape, as identified in the Contract Documents</i>						
46	02821	Furnish and Install Chain Link Gates & Fences	1	LS	151,000	151,000
47	02827	Furnish and Install Gate Openers	1	LS	30,000	30,000
48		Furnish and Install Plastic Fence and Gates-	1	LS	35,000	35,000
DIVISION 3 - CONCRETE WORK <i>Description: The items in this category include, but are not limited to the concrete work, and all related accessories for the trash enclosure, building foundations and slab as identified in the Contract Documents</i>						
49		Furnish and Install All concrete work shown in the Construction Documents and Specified.	1	LS	150,000	150,000
DIVISION 4 - MASONRY WORK <i>Description: The items in this category include, but are not limited to the masonry work, and all related accessories as identified in the Contract Documents</i>						
50		Furnish and Install All masonry work shown in the contract documents and specified	1	LS	60,000	60,000
DIVISION 5 - METALS <i>Description: The items in this category include, but are not limited to the building structural steel, building framing, trash enclosure gates, building canopies, sunshades, pre-engineered metal building components (including metal roofing), down-spouts, and related accessories as identified in the Contract Documents</i>						
51		Furnish and Install All metal work shown in the contract documents and specified	1	LS	40,000	40,000
DIVISION 6 - WOOD AND PLASTICS <i>Description: The items in this category include, but are not limited to the casework, door and frames installation as identified in the Contract Documents.</i>						
52		Furnish and Install Plastic laminate casework	1	LS	45,000	45,000
53		Furnish and Install All other wood and plastic work shown in the contract documents and specified	1	LS	1,000	1,000

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	SUBTOTAL
DIVISION 7 -- THERMAL AND MOISTURE PROTECTION					
<i>Description: The items in this category include, but are not limited to the thermal and sound installation, sheet metal flashing and trim, sealants, fire-stopping, Water and vapor retarders as identified in the Contract Documents</i>					
54	07200 07205 Furnish and Install Thermal and acoustical insulation	1	LS	8,800	8,800
55	07620 Furnish and Install Sheet metal flashing and trims	1	LS	7,500	7,500
56	Furnish and Install All other thermal and moisture protection work shown in the contract documents and specified	1	LS	1,000	1,000
DIVISION 8 -- DOORS & WINDOWS					
<i>Description: The items in this category include, but are not limited to the doors, windows and frames, entrances systems and hardware as identified in the Contract Documents</i>					
57	08110 08115 Furnish and Install Steel Doors and Frames	1	LS	17,000	17,000
58	08210 Furnish and Install Wood Doors	1	LS	6,500	6,500
59	08310 Furnish and Install Access Panels	1	LS	1,000	1,000
60	08410 Furnish and Install Aluminum Entrance and Store Front (including glass)	1	LS	25,000	25,000
61	08460 Furnish and Install Aluminum Sliding Entrance Doors and Frames (including glass)	1	LS	18,000	18,000
62	08520 Furnish and Install Operable aluminum windows and frames- (including glass)	1	LS	19,000	19,000
63	08710 Furnish and Install Finish Hardware	1	LS	28,000	28,000
64	08800 Furnish and Install All other Glass and Glazing- Installed	1	LS	1,200	1,200
65	Furnish and Install All other door and window work shown in the contract documents and specified	1	LS	750	750
DIVISION 9 - FINISHES					
<i>Description: The items in this category include, but are not limited to the building finishes as identified in the Contract Documents</i>					
66	09110 09260 Furnish and Install Non-Load Bearing Metal Studs, Gypsum Board Partitions and Ceilings- Installed	1	LS	280,000	280,000
67	09220 Furnish and Install Portland Cement Plaster	1	LS	95,000	95,000
68	09510 Furnish and Install Acoustical Suspension Systems (including Lay-in Acoustical Ceiling Panels)-	1	LS	20,000	20,000
69	09650 09678 Furnish and Install Resilient Floorings & Top Set Base	1	LS	15,000	15,000
70	09685 Furnish and Install Sheet Carpet	1	LS	4,000	4,000
71	09840 Furnish and Install Acoustical Panels and Baffles - (Kennel Buildings)	1	LS	10,000	10,000
72	09900 Furnish and Install Painting	1	LS	90,000	90,000

ITEM NO.	DESCRIPTION	QUANTIT Y	UNIT	UNIT PRICE	SUBTOTAL
73	Furnish and Install All other finishes work shown in the contract documents and specified	1	LS	6,000	6,000
DIVISION 10 - SPECIALTIES <i>Description: The items in this category include, but are not limited to the dog kennels, restroom accessories, lockers and signage and other work as identified in the Contract Documents</i>					
74	10505 Furnish and Install Metal Lockers	1	LS	2,000	2,000
75	10600 Furnish and Install Built-in Dog Kennel Systems & Guillotine Door (including all chain link gates and fencing systems)	1	LS	30,000	30,000
76	Furnish and Install Exterior & Interior Signage	1	LS	7,000	7,000
77	Furnish and Install All other specialties work shown in the contract documents and specified	1	LS	4,000	4,000
DIVISION 11 - EQUIPMENT <i>Description: The items in this category include, but are not limited to the supply and installation of mechanical systems as identified in the Contract Documents</i>					
78	Furnish and Install Kitchen Equipment	1	LS	1,500	1,500
79	Furnish and Install Freezer	1	LS	20,000	20,000
80	Furnish and Install All other equipment shown in the contract documents and specified	1	LS	500	500
DIVISION 15 - MECHANICAL <i>Description: The items in this category include, but are not limited to the supply and installation of mechanical systems as identified in the Contract Documents</i>					
81	Furnish & Install Mechanical Units, condensing units, exhaust fans and other items (including seismic bracing, plumbing lines, etc.)	1	LS	125,000	125,000
82	Furnish and Install mechanical ductwork and accessories	1	LS	25,000	25,000
83	Furnish and Install All other mechanical equipment work shown in the construction documents and specified	1	LS	10,000	10,000
DIVISION 15 - PLUMBING <i>Description: The items in this category include, but are not limited to the supply and installation of plumbing systems as identified in the Contract Documents</i>					
84	Furnish and Install Automatic dog watering bowls	1	LS	16,000	16,000
85	Furnish and Installed All other plumbing work shown in the construction documents and specified	1	LS	204,000	204,000
DIVISION 16 - ELECTRICAL <i>Description: The items in this category include, but are not limited to the supply and installation of electrical systems as identified in the Contract Documents</i>					
86	Furnish and Install Electrical Main Switchgear, Subpanels, Conduit & Conductors	1	LS	75,000	75,000

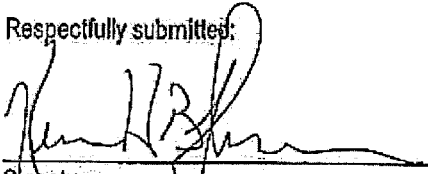
ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	SUBTOTAL	
87	Furnish and Install Site Lighting	1	LS	49,000	49,000	
88	Furnish and Install Lighting & Switches Including Conduit & Conductors	1	LS	84,000	84,000	
89	Furnish and Install Electrical Outlets, Telephone/Data Boxes, conduit & conductors etc.	1	LS	41,000	41,000	
90	Furnish and Install All other electrical equipment shown in the construction documents and specified	1	LS	67,950	67,950	
TOTAL BASE BID ITEMS 1-90 (In Figures)						2,849,400
TOTAL BASE BID ITEMS 1-91 (In Words)						
TWO MILLION EIGHT HUNDRED FORTY NINE THOUSAND FOUR HUNDRED						
PART A- ADDITIVE ALTERNATE BID ITEMS						
A-1	Furnish and install artificial turf systems per plans and details in "Get Acquainted" area of center courtyard	1	LS	\$N/A	38,665	
TOTAL ADDITIVE ALTERNATE BID (PART A) Items A-1 (In Figures)						38,665.00
TOTAL ADDITIVE ALTERNATE BID (PART A) Items A-1 (In Words)						
THIRTY EIGHT THOUSAND SIX HUNDRED SIXTY FIVE						
TOTAL BASE BID + ADDITIVE BID A (In Figures)						2,888,065
TOTAL BASE BID + ADDITIVE BID A (In Words)						
TWO MILLION EIGHT HUNDRED EIGHTY EIGHT THOUSAND SIXTY FIVE						
PART B- ADDITIVE ALTERNATE BID ITEMS						
B-1	Furnish and install in-slab piping systems for warming slab at dog kennel	1	LS	\$N/A	31,800	
TOTAL ADDITIVE ALTERNATE BID (PART B) Items B-1 (In Figures)						31,800
TOTAL ADDITIVE ALTERNATE BID (PART A) Items B-1 (In Words)						THIRTY ONE THOUSAND EIGHT HUNDRED SEVEN THOUSAND THIRTY NINE
TOTAL BASE BID + ADDITIVE BID A + ADDITIVE B (In Figures)						2,919,865

ITEM NO.	DESCRIPTION	QUANTIT Y	UNIT	UNIT PRICE	SUBTOTAL
TOTAL BASE BID + ADDITIVE BID A + ADDITIVE B (In Words) TWO MILLION NINE HUNDRED NINETEEN THOUSAND EIGHT - HUNDRED SIXTY FIVE DOLLARS					

NOTE:

1. Determination of the lowest bidder will be based upon the "TOTAL BASE BID" price indicated in the Bid Form/Bid Schedule of Work Items.
2. All amounts and totals given in the Bid Schedule of Work Items will be subject to verification by the Contractor. In case of variation between the unit cost and amount shown by bidder, the unit cost will be considered to be his/her bid.
3. The price bid shall include all State, Federal, and other taxes applicable to the project, and shall be a firm offer for a period of 60 days after the date of bid opening.
4. Acknowledge receipt of all Addenda. The cover sheet of each addendum issued is to be signed by the Contractor and attached herewith.
5. Unbalanced bids will be considered sufficient grounds for rejection of the entire bid. An unbalanced bid is defined as a bid containing lump sum or unit bid items, which do not reasonably reflect actual costs, plus reasonable share of the anticipated profits, overhead costs, and other indirect costs attributable to the performance of the work in question.
6. The quantities listed in the above Bid Form/Bid Schedule of Work Items are estimates shown for bid comparison only. Payment will be made at the Contract Unit Price for the actual quantities constructed. The ACJPA does not, expressly or by implication, agree that the actual amount of work will correspond therewith, and reserves the right to increase or decrease the amount of any class or portion of the work, or to omit portions of the work, as may be deemed necessary or advisable by ACJPA's authorized representative. In case of variation between the unit cost and amount shown by bidder, the unit cost will be considered to be his/her bid.
7. The undersigned, under penalty of perjury, acknowledges that they are authorized by the bidding Contractor to submit a bid for said Contract.

Respectfully submitted:



Signature

KENNETH B. THOMSON, PRRESIDENT

Title

670072

Contractor's License Number

3940 E. MIRALOMA AVENUE

Address

ANAHEIM, CA 92806

Date 9/18/12

4/30/13

Date of Expiration

(Seal - if Bid Is by a Corporation)

Attest

10% OF BID AMOUNT

Amount of Certified Check or Bid Bond

CULBERTONSON BONDING

Name of Bonding Company

August 23, 2012


To: All Bidders - Animal Control Powers Authority, ACJP Project No-1, Yucca Valley Animal Shelter

From: Alex Qishta, Project Engineer

Subject: Addendum No. 1

Addendum No. 1 is attached. Please sign the attached letter acknowledging receipt of Addendum No. 1 and include it in your bid.

Animal Control Joints Power Authority


Alex Qishta, P.E.
Project Engineer

Planning
(760) 369-6575
Public Works
(760) 369-6579
Building and Safety
(760) 365-0099
Code Compliance
(760) 369-6575
Engineering
(760) 369-6575
Animal Control
(760) 369-7207
FAX (760) 228-0081



The Town of
Yucca Valley

COMMUNITY DEVELOPMENT/PUBLIC WORKS DEPARTMENT
58928 Business Center Dr.
Yucca Valley, California 92284

ADDENDUM NO. 1

TO THE
BID DOCUMENTS
FOR

ACJPA Project No-1

YUCCA VALLEY ANIMAL SHELTER

To: ALL BID DOCUMENT HOLDERS

The bid documents for this bid have been amended as follows:

1. Page SP-1, Section 1.2 SIMILAR EXPERIENCE revised to read

"Similar Experience is defined as in the previous six (6) years; Contractor has been awarded and completed at least one private or public works project, as General Contractor, involving pre-engineered steel building components of the size, complexity, and schedule as contemplated in this project. The size is between \$2,000,000.00 or larger in construction contract amount and involving concrete, masonry and steel structural components in combination with energy efficient environmental systems. Contractor may be asked to submit, before award of contract, client references and documented record of completing a similar project on schedule and within budget parameters given normal adjustments in both time and cost during the construction phase."

2. Page SP-5, Section 6.0 COMMENCEMENT OF WORK AND TIME OF COMPLETION revised to read

"The Contractor shall begin work within ten (10) working days after the date of the Notice to Proceed, and shall diligently prosecute the same to completion by three hundred (300) calendar days after date in said Notice. All construction equipment shall be removed from the site prior to the final completion date."

3. Page SP-6, Section 10 CONSTRUCTION SCHEDULE revised to read

"The provisions of Section 6-1 "Construction Schedule and Commencement of Work" of the Standard Specifications shall apply, except as modified below:

6-1 Construction Schedule and Commencement of Work [Replace the second sentence of the second paragraph]:

The work shall start within 10 calendar days thereafter, and be diligently prosecuted to completion within the time provided in the Specifications.

6-2 Construction Schedule and Commencement of Work [Add the following]:

The Contractor shall submit a construction schedule prior to the issuance of the Notice to Proceed, and shall update the schedule weekly as the work progresses. The construction schedule shall clearly indicate meeting the 300 calendar day construction period following the date in the Notice to Proceed. Contractor shall also conduct weekly construction progress meetings at the job site or at the owners' construction office. The progress meeting shall be conducted to the level of detail necessary to address all issues and work elements that affect the construction schedule, impact to the public, and project costs, including potential claims and whatever work elements deemed necessary by the owner."

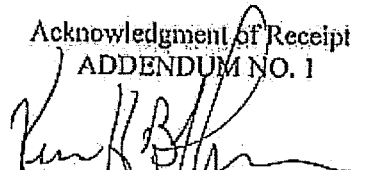
4. A non-mandatory job walk will take place on Monday September 4, 2012 at 9:00 am at the job site, all questions and concerns will be answered at that time.
5. The bid opening day is September 18, 2012 at 3:00 pm at the Town of Yucca Valley Town Clerk Office.

Animal Care Joint Powers Authority

Alex Qishita

Alex Qishita, P.E.
Project Engineer

Acknowledgment of Receipt
ADDENDUM NO. 1


Signature of Bidder

September 10, 2012

To: All Bidders - Animal Control Powers Authority, ACJP-Project No-1, Yucca Valley Animal Shelter

From: Alex Qishta, Project Engineer

Subject: Addendum No. 2

Addendum No. 2 is attached. Please sign the attached letter acknowledging receipt of Addendum No. 2 and include it in your bid.

Animal Control Joints Power Authority

Alex Qishta, P.E.
Project Engineer

Planning
(760) 369-6575
Public Works
(760) 369-6579
Building and Safety
(760) 365-0099
Code Compliance
(760) 369-6575
Engineering
(760) 369-6575
Animal Control
(760) 365-1807
Animal Shelter
(760) 365-3111
FAX (760) 228-0084



The Town of
Yucca Valley

COMMUNITY DEVELOPMENT/PUBLIC WORKS DEPARTMENT
58928 Business Center Dr.
Yucca Valley, California 92284

ADDENDUM NO. 2

TO THE
BID DOCUMENTS
FOR

ACJPA Project No.1

YUCCA VALLEY ANIMAL SHELTER

To: ALL BID DOCUMENT HOLDERS

The bid documents for this bid have been amended as follows:

BIDDING DOCUMENTS

Item No. 1: Contract Documents ACJPA PROJECT NO. 1 – TABLE OF CONTENTS

REVISE to read
Appendix 'E'
Fault Evaluation Report

ADD the following
Appendix 'H'
Geotechnical Report

Item No. 2: Contract Documents ACJPA PROJECT NO. 1 – APPENDIX 'G' GEOTECHNICAL REPORT

ADD attached Appendix 'G' Geotechnical Report

Item No.3: Contract Documents ACJPA PROJECT NO. 1 – AGREEMENT FOR CONTRACT SERVICES

Exhibit "B" *CLARIFICATON*

Builders Risk Insurance, and all other insurance required shall be furnished by the Contractor.
Earthquake and flood insurance are not required.

Item No.4: Contract Documents ACJPA PROJECT NO. 1 - TABLE OF CONTENTS (For Specifications)

DELETE the following

Section 01020 Contract Considerations

Section 02225 Site Demolition

Item No. 5: Contract Documents ACJPA PROJECT NO. 1 – SPECIAL PROVISIONS

Page SP-3 & SP-4, 4.0 PERMITS AND LICENSES,

ADD the following:

- 4.9 Fees related to the County of San Bernardino Fire Department required as part of Condition of approval F-4 as shown on drawing Sheet A.0.4 shall be paid for by the Town.

Item No. 6: Contract Documents ACJPA PROJECT NO. 1 – SPECIAL PROVISIONS

Page SP-28, BID ITEM 11: FURNISH AND INSTALL DECOMPOSED GRANITE,

REVISE first sentence to read

Contractor shall furnish and install a 2 inch (compacted thickness) layer of Decomposed Granite as shown on the plans.

Item No. 7: Contract Documents ACJPA PROJECT NO. 1 – GENERAL PROVISIONS

Page GP-4 **ADD** the following:

2-3.2 Self Performance: The Contractor shall perform, with its own organization, Contract work amounting to at least 5% of the contract price.

Item No. 8: Contract Documents ACJPA PROJECT NO. 1 – GENERAL PROVISIONS

Page GP-3 **AMEND** the following:

2-1.2 Award of Contract: The award of the contract, if it be awarded, will be to the lowest responsible Bidder whose proposal complies with all the requirements prescribed. The award, if made, will be made within ninety (90) calendar days after the opening of the proposals.

SPECIFICATIONS

ITEM NO. 9: Contract Documents ACJPA PROJECT NO. 1 – DIVISION 1 THROUGH DIVISION 16, ALL SECTIONS

Paragraph 1.01 SUMMARY – **REVISE** part A, to read

- A. Documents affecting work of this Section include, but are not necessarily limited to, General Provisions, Special Provisions and Division I.

ITEM NO. 10: Contract Documents ACJPA PROJECT NO. 1 – SECTION 11405 PRE-FABRICATED WALK-IN FREEZER

DELETE Section 11405 in its entirety and replaced with attached Specification Section 11405 Pre-fabricated Walk-In Freezer.

ITEM NO. 11: Contract Documents ACJPA PROJECT NO. 1 – SECTION 05125 PRE-ENGINEERED METAL BUILDING

Paragraph 2.03 ROOFING & SIDING – *REVISE* part A.1 to read

A. Roofing Wall Covering:

1. Roof Panels: 24 ga, Standing Seam Roofing Panels #SS-24 by CBC Steel Buildings or approved equal, BASF Kynar (custom color) panels to provide 24" coverage with 3" high seams. Provide Lascolite, translucent fiberglass reinforced plastic panels in profile to coordinate with standing seam roofing at locations in kennel buildings as shown on architectural roof plans Sheet A2.2 & A3.2 Roof Plan & Reflected Ceiling Plan.

ITEM NO. 12: Contract Documents ACJPA PROJECT NO. 1 – SECTION 05125 PRE-ENGINEERED METAL BUILDING

Paragraph 2.03 ROOFING & SIDING – *REVISE* part A.2 to read

2. Wall panels at Admin. Bldg #1:

- a. 24 ga. Reversed HR-36 Wall Panels by AEP Span, horizontal installation, DuraTech 5000 custom color as shown on Exterior Elevations (matching color screws along with closures). Includes any required wall supports.
- b. 22 ga Prestige Series Wall Panels with 2" reveal by AEP Span, vertical installation, DuraTech 5000 standard color: Colonial Red

ITEM NO. 13: Contract Documents ACJPA PROJECT NO. 1 – SECTION 07200 THERMAL INSULATION

Entire Section – *DELETE* all references to roof insulation and refer to new, attached Specification Section 07201 PRE-ENGINEERED METAL BUILDING ROOF INSULATION for all materials and work associated with roof insulation in all buildings.

ITEM NO. 14: Contract Documents ACJPA PROJECT NO. 1 – SECTION 07201 PRE-ENGINEERED METAL BUILDING ROOF INSULATION

ADD attached Section 07201 in its entirety to the technical specification.

ITEM NO. 15: Contract Documents ACJPA PROJECT NO. 1 – SECTION 09840 ACOUSTICAL PANELS

ADD attached Section 09840 in its entirety to the technical specification.

ITEM NO. 16: Contract Documents ACJPA PROJECT NO. 1 – SECTION 09841 ACOUSTICAL BAFFLES

ADD attached Section 09841 in its entirety to the technical specification.

ITEM NO. 17: Contract Documents ACJPA PROJECT NO. 1 – SECTION 09900 PAINTING

ADD the following *CLARIFICATION*: "Structural steel shall be primed per specification. All exposed structural steel shall receive (in addition to the prime coat(s)) High-Performance Coatings per specification.

DRAWINGS

ITEM NO. 18: Contract Documents ACJPA PROJECT NO. 1 – SHEET 2 of 5 GRADING, DRAINAGE & SEWER PLANS -

Construction Notes 1, 2 & 7 – *ADD* the following to each note
"Provide redwood header at AC and DG conditions where no concrete curb occurs per architectural detail 19/A0.3"

ITEM NO. 19: Contract Documents ACJPA PROJECT NO. 1 – SHEET A1.2 BUILDING 1, BUILDING SECTIONS, EXTERIOR ELEVATIONS -

REVISE color call out for Prestige Panels to be DuraTech 5000, Standard Color: Colonial Red by AEP
Span.

ITEM NO. 20: Contract Documents ACJPA PROJECT NO. 1 – SHEET A2.1 BUILDING 2 FLOOR PLAN, SLAB EDGE, SLOPE, CURB EDGE & SHEET A3.1 BUILDING 3 FLOOR PLAN, SLAB EDGE, SLOPE, CURB EDGE

Floor Plan: *CLARIFICATION* - Metal stud framing not shown on floor plan for clarity. See Wall Legend, Wall Sections and Details for all information.

ITEM NO. 21: Contract Documents ACJPA PROJECT NO. 1 - SHEETS A2.3 BUILDING 2, & A3.3 BUILDING 3, BUILDING SECTIONS, EXTERIOR ELEVATIONS -

Keynotes #9.18 - *REVISE* the following to the note
"2'-0" high x length as shown on drawings fabric wrapped acoustical panels - see Specification Section 09840 for more information."

Keynotes #9.19 - *REVISE* the following to the note
"2'-0" high x length as shown on drawings suspended acoustical baffles - see Specification Section 09841 for more information."

ITEM NO. 22: Contract Documents ACJPA PROJECT NO. 1 - SHEETS A3.3 BUILDING 3, BUILDING SECTIONS, EXTERIOR ELEVATIONS -

Detail 2 KEYNOTES: *CLARIFICATION* - Refer to typical keynotes on Sheet A2.3 for Building Sections.

ITEM NO. 23: Contract Documents ACJPA PROJECT NO. 1 - SHEETS A3.3 BUILDING 3, BUILDING SECTIONS, EXTERIOR ELEVATIONS -

Detail 7 & 8 EXTERIOR ELEVATIONS: *REVISE* title to read "BUILDING 3 - EXTERIOR ELEVATIONS"

ITEM NO. 24: Contract Documents ACJPA PROJECT NO. 1 - SHEETS A5.2 DETAILS -

Detail 18 & 19: *ADD* attached Detail 18 "Gate Plan" and Detail 19 "Gate Elevation" to Sheet A5.2.

ITEM NO. 25: Contract Documents ACJPA PROJECT NO. 1 - SHEETS A0.3 SITE DETAILS -

Detail 9: *ADD* Detail 9 "Parking Lot Light Fixture Standard" to Sheet A0.3 per attached drawing AD2-2

**ITEM NO. 26: Contract Documents ACJPA PROJECT NO. 1 – SHEETS S1, S2 & S3
BUILDING #1, #2 & #3 GROUND AND FOUNDATION PLAN -**

ADD the following note: "Provide 2" of sand under slab. Sandwich vapor retarder between the 2" of sand."

**ITEM NO. 27: Contract Documents ACJPA PROJECT NO. 1 – SHEET A1.7 INTERIOR
ELEVATIONS – (ALSO REFERENCE SHEET A1.3, DETAIL 14) -**

Detail 7 – Shower 120 – Keynote 10.16:

REVISE to read "Freedom ADA One Piece Fiberglass Shower Unit 63" x 38 1/4", Model No. APFQ6437BF75 by Accessibility Professionals. Provide floor leveler over concrete slab to float floor up to shower threshold to provide ADA compliant 1/2" max. threshold transition."

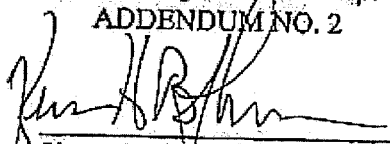
ITEM NO. 28: Last day for Request for Information, RFI's is September 10, 2012.

END OF ADDENDUM 02.

Animal Care Joint Powers Authority

Alex Qishta, P.E.
Project Engineer

Acknowledgment of Receipt
ADDENDUM NO. 2



Signature of Bidder

September 13, 2012

To: All Bidders - Animal Control Powers Authority, ACJP Project No-1, Yucca Valley Animal Shelter

From: Alex Qishta, Project Engineer

Subject: Addendum No. 3

Addendum No. 3 is attached. Please sign the attached letter acknowledging receipt of Addendum No. 3 and include it in your bid.

Animal Control Joins Power Authority

Alex Qishta

Alex Qishta, P.E.
Project Engineer

Planning
(760) 369-6575
Public Works
(760) 369-6579
Building and Safety
(760) 365-0099
Code Compliance
(760) 369-6575
Engineering
(760) 369-6575
Animal Control
(760) 365-1807
Animal Shelter
(760) 365-3111
FAX (760) 228-0084

The Town of
Yucca Valley

COMMUNITY DEVELOPMENT/PUBLIC WORKS DEPARTMENT
58928 Business Center Dr.
Yucca Valley, California 92284

ADDENDUM NO. 3

TO THE
BID DOCUMENTS
FOR

ACJPA Project No.1

YUCCA VALLEY ANIMAL SHELTER

To: ALL BID DOCUMENT HOLDERS

The bid documents for this bid have been amended as follows:

SPECIFICATIONS**ITEM NO. 1: Contract Documents ACJPA PROJECT NO. 1 – SECTION 09220 PORTLAND CEMENT PLASTER**

DELETE in its entirety and *REPLACE* with attached Specification Section 09220 Portland Cement Plaster.

DRAWINGS**ITEM NO. 2: Contract Documents ACJPA PROJECT NO. 1 – SHEET 2 of 5 GRADING, DRAINAGE AND SEWER PLANS –**

ADD the following general note: Contractor shall demolish and dispose of existing concrete slab. Slab dimensions are approximately 18' x 27'.

ITEM NO. 3: Contract Documents ACJPA PROJECT NO. 1 – SHEET A5.1 DETAILS –

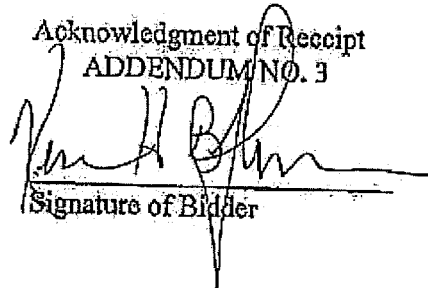
Detail 16: *REVISE* call out for veneer plaster to include the following – “Provide Diamond Finish Veneer Finish System by USG over Imperial Veneer Basecoat Plaster by USG over 5/8” Imperial Gypsum Board Sheathing. Provide smooth finish. Full installation shall be per manufacturer’s recommendations.”

END OF ADDENDUM 03.

Animal Care Joint Powers Authority

Alex Qishta, P.E.
Project Engineer

Acknowledgment of Receipt
ADDENDUM NO. 3



Signature of Bidder

North American Specialty Insurance Company

Bond #12-B
Premium Nil

BID BOND

KNOW ALL MEN BY THESE PRESENTS, That We, Facility Builders & Erectors, Inc.

3940 E. Miraloma Avenue
of Anaheim, CA 92806, as Principal, and North American Specialty Insurance Company, of Manchester, New Hampshire, as Surety, a New Hampshire corporation duly licensed to do business in the State of California are held and firmly bound unto Animal Care Joint Powers Authority as Oblige, in the penal sum of ten percent of amount bid Dollars (\$ 10%), for the payment of which the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, That, whereas the Principal has submitted, or is about to submit, a proposal or a bid to the Oblige on a contract for Yucca Valley Animal Shelter, ACJPA Project No. 1

NOW, THEREFORE, if the aforesaid principal shall be awarded the contract, the said principal will within the period specified therefore, or, if no period be specified, within ten (10) days after the notice of such award into a contract and give bond for the faithful performance of the contract, then this obligation shall be null and void, otherwise the principal and the surety will pay unto the obligee the difference in money between the amount of the bid of said principal and the amount for which the obligee may legally contract with another party to perform the work if the latter amount be in excess of the former, in no event shall the liability hereunder exceed the penal sum hereof.

PROVIDED AND SUBJECT OF THE CONDITION PRECEDENT, that any suits at law or proceedings in equity brought or to brought against the Surety to recover any claim hereunder must be instituted and service had upon the Surety within ninety (90) days after the acceptance of said bid of the Principal by the Oblige.

Any person who, with the intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

SIGNED, SEALED AND DATED this 11th day of September, 2012

Facility Builders & Erectors, Inc.

By: [Signature]
Principal

North American Specialty Insurance Company

By: [Signature]
Attorney-In-Fact

Richard A. Coon

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Orange

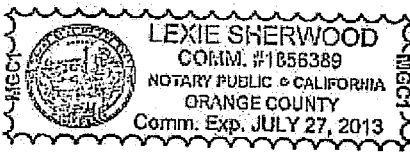
On 9-11-12
Date

before me, Lexie Sherwood, Notary Public

Here Insert Name and Title of the Officer

personally appeared Richard A. Coon

Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature

Lexie Sherwood

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____

Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

NAS SURETY GROUP

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Manchester, New Hampshire, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Schaumburg, Illinois, each does hereby make, constitute and appoint:

DAVID L. CULBERTSON, CHARLES L. FLAKE, RICHARD A. COON, and LEXIE SHERWOOD

JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

FIFTY MILLION (\$50,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 9th of May, 2012:

"RESOLVED, that any two of the Presidents, any Managing Director, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."



By [Signature] Steven P. Anderson, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company



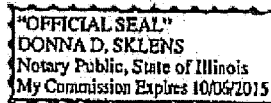
By [Signature] David M. Layman, Vice President of Washington International Insurance Company & Vice President of North American Specialty Insurance Company

IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 20th day of June, 2012.

North American Specialty Insurance Company
Washington International Insurance Company

State of Illinois
County of Cook ss:

On this 20th day of June, 2012, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and David M. Layman, Vice President of Washington International Insurance Company and Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



[Signature] Donna D. Sklens, Notary Public

I, Jeffrey Goldberg, the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 11th day of September, 2012.

[Signature] Jeffrey Goldberg, Vice President & Assistant Secretary of Washington International Insurance Company & North American Specialty Insurance Company

State of California)
County of Orange)

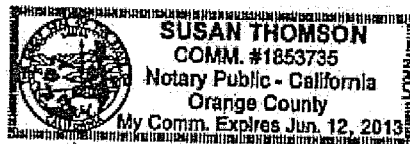
**CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT**

on September 18, 2012 before me, Susan Thomson, Notary,
(here insert name and title of the officer)
personally appeared Kenneth B. Thomson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Susan Thomson

(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Yucca Valley Bid Bond containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- Individual(s)
 Attorney-in-Fact
 Corporate Officer(s) _____
Title(s) _____

- Guardian/Conservator
 Partner - Limited/General
 Trustee(s)
 Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information	
Method of Signer Identification	
Proved to me on the basis of satisfactory evidence: <input type="checkbox"/> form(s) of identification <input type="checkbox"/> credible witness(es)	
Notarial event is detailed in notary journal on: Page # _____ Entry # _____	
Notary contact: _____	
Other	
<input type="checkbox"/> Additional Signer(s)	<input type="checkbox"/> Signer(s) Thumbprint(s)
<input type="checkbox"/> _____	

ACJPA Original Agreement (Nov 2008)

JOINT POWERS AGREEMENT

CREATING

**THE ANIMAL CARE
JOINT POWERS AUTHORITY**

BY AND AMONG

**THE COUNTY OF SAN BERNARDINO
AND
THE TOWN OF YUCCA VALLEY**

CITY-COUNTY ANIMAL SERVICES JOINT POWERS AUTHORITY

JOINT POWERS AGREEMENT

This JOINT POWERS AGREEMENT, made in accordance with Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (commencing with Section 6500), as amended and supplemented from time to time (the "Act"), for convenience dated as of November 18, 2008, by and among the TOWN OF YUCCA VALLEY (hereinafter also "Town"), a body corporate and politic and a political subdivision of the State of California (the "State"), and the COUNTY OF SAN BERNARDINO (hereinafter also "County"), a body corporate and politic and a political subdivision of the State.

RECITALS:

WHEREAS, pursuant to the Act, the authority created under this Agreement (as defined herein) shall possess such common powers of the Members, and may exercise such powers, as specified in this Agreement and to exercise the additional powers granted to it pursuant to the Act;

WHEREAS, by this Agreement, each Member desires to create and establish the City-County Animal Services Joint Powers Authority for the purposes set forth herein and to exercise the powers provided herein.

NOW, THEREFORE, the Members, for and in consideration of the mutual agreements and covenants contained herein, do agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. Unless the context otherwise requires, the words and terms defined in this Article I shall, for the purpose hereof, have the meanings herein specified.

"Act" means the Joint Exercise of Powers Act, Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the California Government Code.

"Authority" shall mean the City-County Animal Services Joint Powers Authority, the separate agency created by this Agreement.

"Agreement" means this Joint Powers Agreement as the same now exists and as it may from time to time be amended.

"Animal Care and Control Facility" means an animal care and control facility in the Town of Yucca Valley, to provide animal services and shelter to both the residents in the incorporated areas of the Town and the unincorporated areas of the County.

"Board" means the Board of Directors of the Authority created by this Agreement.

"Brown Act" means the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (Sections 54950 to 54961), and any successor legislation hereinafter enacted.

"Director(s)" means the person(s) appointed to the Board pursuant to Section 2.03.

"Fiscal Year" means the calendar period from July 1st to and including the following June 30th, unless and until changed by a resolution of the Authority.

"Member" means, individually, the County of San Bernardino or the Town of Yucca Valley.

"Members" means the County of San Bernardino, the Town of Yucca Valley, and cities or towns which may, by amendment, later become members of this Joint Powers Authority, collectively.

"State" means the State of California.

ARTICLE II

GENERAL PROVISIONS REGARDING PURPOSE AND CREATION OF THE AUTHORITY

Section 2.01. Purpose. In accordance with Section 6503 of the Act, the purpose of this Agreement is to provide for the exercise of powers common to each Member, including but not limited to, the creation of the Authority to provide for the financing, planning, design, construction, operation and maintenance of an animal care and control facility in the Town of Yucca Valley, to provide animal services and shelter to both the residents in the incorporated areas of the Town and the unincorporated areas of the County. The agreement and its Attachments A and B are intended to provide a framework for the addition of additional member cities and towns in the future, with the goal of creating a County-wide animal care and control program in conjunction with the member towns and cities. The framework for the arrangement between the County of San Bernardino and the Town of Yucca Valley under this agreement is set forth in the attached Attachments A and B which define the proposed arrangements between these two parties only, and may not necessarily apply to members who may subsequently join this Authority. Attachment A is the Proposed Workplan and Scope of Services of this agreement, the details to be determined by the Board of Authority during the first 12 months following the creation of the Authority. Attachment B is the Joint Funded Animal Shelter Project construction and funding plan, the details to be determined by the Board of Authority during the first 12 months following the creation of the Authority. The Authority will develop a proposed operations plan, the details of which are to be determined by the Board of Authority during the first 12 months following the creation of the Authority, to deal with budget(s), the rights of the current Town personnel to be employed by the Authority, and other details.

Section 2.02. Term. This Agreement shall become effective when it has been approved by each of the Members. This Agreement shall continue in full force and effect until terminated by mutual consent of the Members.

Section 2.03. Board of Directors. The Authority shall be governed by a Board of Directors (Board), with each Director receiving one vote. The Board shall be comprised of four Directors designated as follows:

- A. San Bernardino County shall be represented by its Third District Supervisor and a second Director recommended for appointment by the Third District Supervisor and appointed by action of the San Bernardino County Board of Supervisors who must be an elected or appointed official of San Bernardino County.
- B. The Town of Yucca shall be represented by one of its Councilpersons and a second Director appointed by action of the Town Council of the Town of Yucca Valley who must be an elected or appointed official of the town of Yucca Valley.

Section 2.04. Alternates. Except as provided below, each Member shall appoint an alternate (Alternate) for each of its two Directors. An Alternate may perform all functions of a Director, including voting, in the absence of the Director, unless as the respective Director limits the authority of his or her Alternate in a writing filed with the Secretary. The Alternate for San Bernardino County's Third District Supervisor shall be appointed by the Third District Supervisor. The Alternate for Town of Yucca Valley's Councilperson shall be appointed by the Councilperson.

Section 2.05. Term of Board of Directors. Each Director and Alternate shall serve at the pleasure of his or her appointing authority.

Section 2.06. Meetings. All meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Brown Act. The Board shall meet a minimum of one time per year. The meeting shall take place at a location determined by the Authority.

Section 2.07. Minutes. The Secretary shall cause to be kept minutes of the meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director of the Board, the Clerk of the Board of Supervisors, and the Clerk of the Town.

Section 2.08. Quorum. A majority of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time. The affirmative votes of at least a majority of the Directors present at any meeting at which a quorum is present shall be required to take any action by the Board.

Section 2.09. Bylaws. The Board may adopt Bylaws for the conduct of business and as are necessary for the purposes hereof. The Board may adopt additional resolutions, rules, regulations, and policies for the conduct of its business and as are necessary for the purposes hereof in a manner consistent with this Agreement and the Bylaws.

Section 2.10. Annual Budget. The Board shall adopt an annual budget for each fiscal year. The Bylaws may further provide for the presentation and content of the budget.

Section 2.11. Annual Operational and Fiscal Report. The Board shall cause an annual operational report and annual fiscal report to be prepared and provided to each Member.

ARTICLE III

OFFICERS AND EMPLOYEES

Section 3.01. Chair and Vice-Chair. The Board of Directors shall elect from among its members, a Chair and a First and Second Vice-Chairs. The Chair shall sign all contracts on behalf of the Authority, except as otherwise set forth in this Agreement, and shall perform such other duties as may be imposed by the Board in the Bylaws. The First Vice-Chair shall sign contracts and perform all of the Chair's duties in the absence of the Chair, unless the Bylaws of the Authority provide otherwise. The duties of the Second Vice-Chair may be set forth in the Bylaws. Elections for such officers shall be held each year at a regular or special meeting of the Board with terms running concurrent with the Authority's Fiscal Year. The term of office shall be the Fiscal Year or until a successor is elected.

Section 3.02. Secretary. The Board shall appoint a Secretary to the Board. The Secretary shall serve at the pleasure of the Board. The Secretary shall countersign all contracts signed by the Chair or Vice-Chair on behalf of the Authority, unless the Bylaws of the Authority provide otherwise. The Secretary shall cause a notice of this Agreement to be filed with the California Secretary of State pursuant to Section 6503.5 of the Act and Section 53051 of the California Government Code. The Secretary shall be responsible to the Board for the call, noticing and conduct of the meetings pursuant to the Ralph M. Brown Act (Section 54950 et seq. of the California Government Code). The Board may further provide for the duties and responsibilities of the Secretary in the Bylaws.

Section 3.03. Treasurer. Pursuant to Section 6505.5 of the Act, the Board shall designate the Treasurer of the County of San Bernardino as the Treasurer of the Authority, until otherwise determined by the Authority. The Treasurer shall be the depository, shall have custody of all of the accounts, funds and money of the Authority from whatever source, shall have the duties and obligations set forth in Sections 6505 and 6505.5 of the Act and shall assure that there shall be strict accountability of all funds and reporting of all receipts and disbursements of the Authority. The bond of the Treasurer under this Agreement shall be his/her official bond as the Treasurer of the County of San Bernardino and no additional bond will be required. The monies of the Authority shall be accounted for separately and invested in the same manner and upon the same conditions as local agencies pursuant to Section 53601 of the Government Code, including but not limited to investment in the County treasury pool of San Bernardino County.

Section 3.04. Contract With Certified Public Accountant. The Auditor-Controller of San Bernardino County, shall be the Auditor of the Authority, until otherwise determined by the Authority. As required by Section 6505 of the Act, the Auditor shall make arrangements or

contract with a certified public accountant or firm of certified public accountants for the annual audit of accounts and records of the Authority. In each case the minimum requirements of the audit shall be those prescribed by generally accepted accounting principles. When such an audit of accounts and records is made by a certified public accountant, a report thereof shall be filed with each Member and each officer of the Agency. Such a report shall be filed within six months of the end of the fiscal year under examination. Any costs of the audit, including contracts with, or employment of, certified public accountants in making an audit pursuant to this section, shall be borne by the Authority and shall be a charged against any unencumbered funds of the Authority available for that purpose.

Section 3.05. Officers in Charge of Records, Funds and Accounts. Pursuant to Section 6505.1 of the Act, the Treasurer shall have charge of, handle and have access to all accounts, funds and money of the Authority and all records of the Authority relating thereto. The Secretary shall have charge of, handle and have access to all other records of the Authority.

Section 3.06. Legal Advisor. The Board has the discretion to designate either the County Counsel of San Bernardino County or the Counsel of the Town of Yucca Valley as legal advisor and counsel to the Authority.

Section 3.07. Other Employees. The Board shall have the power by adoption of Bylaws to appoint and employ such other employees, consultants and independent contractors as may be necessary for the purpose of this Agreement.

Section 3.08. Officers and Employees of the Authority. As required by Section 6513 of the Act, all of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activities of officers, agents, or employees of a public agency when performing their respective functions shall apply to the officers, agents or employees of the Authority to the same degree and extent while engaged in the performance of any of the functions and other duties of such officers, agents or employees under this Agreement with no additional compensation. None of the officers, agents, or employees directly employed by the Board shall be deemed, by reason of their employment by the Board, to be employed by any of the Members or, by reason of their employment by the Board, to be subject to any of the requirements of the Members.

ARTICLE IV

POWERS

Section 4.01. General Powers. The Authority shall exercise, in the manner herein provided, the powers which are common to each of the Members, or as otherwise permitted under the Act, and, necessary to the accomplishment of the purpose, as provided in Section 2.01, Purpose, of this Agreement. As required in the Act, the Authority shall be a public entity separate from each of the Members.

Section 4.02. Specific Powers. The Authority is hereby authorized, in its own name, to do all acts necessary for the exercise of the foregoing general powers, including but not limited to, any or all of the following:

- (a) to make and enter into contracts;
- (b) to employ agents or employees;
- (c) to sue and be sued in its own name;
- (d) to acquire, by negotiated purchase or condemnation, construct, manage, maintain or operate any property, building, works, or improvements;
- (e) to acquire, by negotiated purchase or condemnation, hold or dispose of property;
- (f) to incur debts, liabilities or obligations, provided that no such debt, liability, or obligation shall constitute a debt, liability or obligation of the Members;
- (g) to apply for, accept, receive and disburse grants, loans and other aids from any agency of the United States of America or of the State;
- (h) to invest any money in the treasury pool as indicated in Section 3.03 of this Agreement; and
- (i) to carry out and enforce all the provisions of this Agreement.

Section 4.03. Restrictions on Powers. Pursuant to Section 6509 of the Act, the above powers shall be subject to the restrictions upon the manner of exercising the power of one of the Members, which is designated as San Bernardino County.

Section 4.04. Obligations of Authority. The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the Members.

ARTICLE V

CONTRIBUTIONS, ASSETS AND DISTRIBUTION UPON TERMINATION

Section 5.01. Contributions. The Members may make contributions from their treasuries for the purpose set forth in Section 2.01, Purpose, make payments of public funds to defray the cost of such purpose, make advances of public funds for such purpose, and/or use its personnel, equipment or property in lieu of contributions or advances. The provisions of Section 6512.1 of the Act are hereby incorporated into this Agreement by reference.

Section 5.02. Distribution of Assets upon Termination. Upon termination of this Agreement and after resolution of all debts, liabilities and obligations, all money and other property, both real and personal, of the Authority shall, pursuant to Sections 6511 and 6512 of

the Act, be divided among the Members proportional to the contributions made by the respective Members.

ARTICLE VI

LIABILITY, INDEMNIFICATION AND INSURANCE

Section 6.01. Authority Liability and Indemnification. The debts, liabilities, and obligations of the Authority shall not be the debts, liabilities and obligations of the Members. The Board of Directors of the Authority, and the officers, employees, and staff of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. They shall not be liable for any mistakes of judgment or any other action made, taken or omitted by them in good faith, including without limitation, investment of Authority funds, or failure to invest. No member of the Board of Directors, and no officer or employee of the Authority shall be responsible for any action taken or omitted by any other director, officer or employee. No director, officer or employee shall be required to give a bond or other security to guarantee the faithful performance of his or her duties pursuant to this Agreement, except as otherwise provided in Section 3.03. The Authority shall indemnify, defend and hold harmless the individual Board of Director members, and the Authority's officers and employees from any and all claims, actions, losses, damages and/or liability arising from any actions or omissions taken lawfully and in good faith pursuant to this Agreement. The Authority shall indemnify, defend and hold harmless each of the Members and their authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising from the Authority's acts, errors or omissions and for any costs or expenses incurred by any Member on account of any claim therefor, except where such indemnification is prohibited by law.

Section 6.02. Member Indemnification. Pursuant to the provisions of California Government Code Section 895 et seq., and except as required in Section 6.01, Authority Indemnification of Members, herein, each Member agrees to defend, indemnify and hold harmless each other Member from any liability, claim, or judgment for injury or damages caused by any negligent or wrongful act or omission of any agent, officer and/or employee of the indemnifying Member which occurs or arises out of the performance of this Agreement.

Section 6.03. Insurance. The Board shall provide for insurance covering liability exposure in an amount as the Board determines necessary to cover risks of activities of the Authority.

Section 6.04. Third Party Beneficiaries. This Agreement and the obligations hereto are not intended to benefit any party other than its Members, except as expressly provided otherwise herein. Only the signatories to this Agreement shall have any rights or causes of action against any party to this Agreement as a result of that party's performance or non-performance under this Agreement, except as expressly stated in this Agreement.

Section 7.01. Notices. Notices hereunder shall be in writing and shall be sufficient if addressed to the offices listed below and shall be deemed given upon deposit in to the U.S. mail, first class, postage prepaid:

San Bernardino County Third District Supervisor
County Government Center
385 North Arrowhead Avenue, 5th Floor
San Bernardino, CA 92415-0110

With a copy to: San Bernardino County Counsel
County Government Center
385 North Arrowhead Avenue, 4th Floor
San Bernardino, CA 92415-0140

Town of Yucca Valley Town Manager
57090 29 Palms Highway
Yucca Valley, CA 92284

With a copy to: Town Attorney
57090 29 Palms Highway
Yucca Valley, CA 92284

The Members may change the above addresses for notice purposes by written notification as provided above to each of the other Members. Said change of address may be filed with the Bylaws. Meeting notices and general correspondence may be served electronically.

Section 7.02. Law Governing. This Agreement is made in the State of California under the constitution and laws of the State, and is to be so construed.

Section 7.03. Amendments. This Agreement may be amended at any time, or from time to time, by action of all Members hereto, to add additional parties to this agreement or to modify any of its terms.

Section 7.04. Severability. Should any part, term or provision of this Agreement be decided by any court of competent jurisdiction to be illegal or in conflict with any law of the State, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

Section 7.05. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the Members, respectively. No Member may assign any right or obligation hereunder without the unanimous consent of all Members.

Section 7.06. Section Headings. All article and Section headings in this Agreement are for convenience of reference only and are not to be construed as modifying or governing the language in the Section referred to or to define or limit the scope of any provision of this Agreement.

Section 7.06. Section Headings. All article and Section headings in this Agreement are for convenience of reference only and are not to be construed as modifying or governing the language in the Section referred to or to define or limit the scope of any provision of this Agreement.

Section 7.07. Multiple Counterparts. This Agreement may be executed in multiple counterparts, any one of which shall be deemed an original but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their duly authorized officers, and their official seal to be hereto affixed, as of the day and year written.

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY


Paul Blane, Chairman
Board of Supervisors


Mayor
Town of Yucca Valley

Dated: NOV 18 2008

Dated: Nov. 13, 2008

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE MAYOR OF THE BOARD

Denasm, Smith, Clerk of the Board of Supervisors

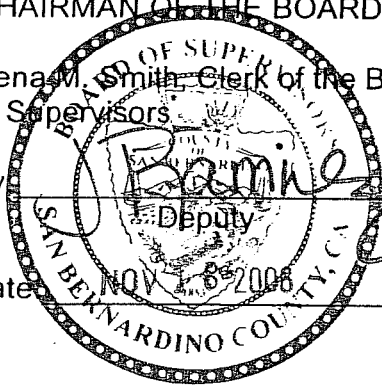
Janet M. Anderson Clerk of the Town of Yucca Valley

By: 
Deputy

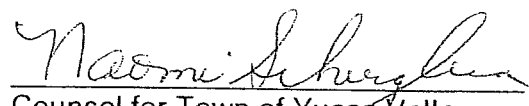
By: 
Deputy

Date: NOV 18 2008

Date: 11/13/08



Approved as to Legal Form:


Counsel for Town of Yucca Valley

By: _____

Date: 11/13/08

ATTACHMENT A
PROPOSED WORKPLAN AND SCOPE OF SERVICES

I. **WORKPLAN**

The Authority shall evaluate the possible operational costs associated with operating animal care and control services for the County Morongo Basin region and the Town of Yucca Valley.

The Authority shall accomplish the following Steps over the first twelve (12) months of operations as follows:

Step 1: (0 to 6 months)

The Board of Authority determines and implements its governance and organizational structure.

Step 2: (7 to 9 months)

The Board of the Authority proceeds with the development of the Animal Shelter facility construction plan and finalizes the details for the building location, design and size.

Step 3: (10 to 12 months)

The Board of the Authority evaluates the potential combination of additional animal care and control field services in the County and Town.

II. **SCOPE OF SERVICES**

A. **DEFINITIONS**

1. Shelter Services – Authority shall maintain and operate one or more animal shelters (public pounds) in accordance with the minimum standards prescribed by the State of California and the governing Health Department. Services provided by Authority for the County and Town (for residents or animals within the service area described in Section II.A.8, below) shall include: impounding stray and/or owner released animals; providing proper care and treatment; and quarantining biting animals. Authority shall comply with all County and Town ordinances regarding animals and animal impoundment.
2. Licensing Services – Authority shall collect, on behalf of County and Town, all dog licenses and impounding fees. Authority shall use the most current rates established by County and Town. The JPA Board will decide how to combine and approve joint rates from the County and the Town.
3. Euthanasia – The act of causing the painless and easy death of animals. 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.”

4. Impoundment – The taking into custody of any animal: (1) found in violation of State, County and/or Town laws and ordinances; (2) for the protection of animal or human health and/or safety; (3) for any similar circumstances; and the animal is housed in a shelter facility or transported to a veterinarian.
5. Neuter/Spay – The surgical sterilization of any animal resulting in the inability of that animal to produce offspring. Neuter may indicate either male or female, although usually thought of as male, and spay refers to female.
6. Quarantine – The strict confinement, for a specific amount of time, of an animal, either on private property or in a shelter (or similar) setting, 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.
7. Stray – Any animal that has not been in the care and custody of the person delivering and declaring such animal to be a stray for a period in excess of six (6) days.
8. Service Areas - The unincorporated areas of the Morongo Basin region of San Bernardino County and the incorporated area of the Town of Yucca Valley.
9. Quarter or quarterly – The three-month period beginning with the contract effective date.

B. AUTHORITY SERVICE RESPONSIBILITIES

1. Authority shall accept for impoundment any and all animals, with the exception of horses, cattle, pigs, and other large livestock, from the Service Areas which are brought to the Shelter by Member officers, Sherriff deputies, constable, authorized individuals, and residents of the Services Areas as defined in Section II.A.8, above, subject to availability of space at shelter.
2. Authority shall accept for impoundment any and all stray animals involved in bite cases with the exception of horses, cattle, pigs, and other large livestock which are delivered to the shelter by persons authorized in Section II.A., above, and shall quarantine said animals for the period described by County and Town Codes. Quarantined County animals shall not be released or destroyed without prior written or verbal approval of the County; quarantined Town animals shall not be released or destroyed without prior written or verbal approval of the Town.
3. Authority shall require residents of the Services Areas delivering stray animals to sign an impound slip indicating that the animal is a stray, as described in Section II.A.7, above. 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.

4. Authority shall provide proper care and treatment to any animal impounded in accordance with all provisions of the California Food and Agricultural Code, the Penal Code, and other applicable statutes and regulations pertaining to the operation of an animal shelter.
5. Authority shall accept dead animals with the exception of horses, cattle, pigs, and other large livestock, which are delivered to the shelter by residents of the Service Areas or persons authorized in Section II.A.1., above.
6. Authority shall provide medical and/or veterinary services to any animal delivered to the shelter that is injured or sick.
7. Authority shall maintain and operate an adequate, suitable and sanitary animal shelter (public pound) in compliance with the standards prescribed by the State and the governing Health Department.
8. Authority shall receive animals from the public during the operating hours established by the Board, and shall comply with all state law holding period mandates. Authority shall issue keys to County personnel (Animal Control Officers and Supervisors) and Town personnel or provide other facility access to allow impoundment of animals after hours.
9. Authority shall ensure that animals will be displayed to public to allow owner identification. When animals are wearing identification, known owners will be contacted by telephone and by mail. Owned animal must be held for ten (10) business days. If animals are not redeemed by their owners and adoption holds have not been placed, some may be made available for adoption for an additional time period on a space available basis. Those which are neither redeemed nor adopted may be euthanized after the mandatory hold period, as mandated by provisions in the Food and Agricultural Code, has elapsed from the time said animal was apprehended.
10. Authority shall euthanize all stray animals brought to the shelter by persons authorized in Section II.A.1., above, provided that it is in compliance with State law and no animal so impounded shall be euthanized without notice to the owner of such animal, if that person is known. Animals impounded under the provisions of applicable County and Town Codes shall be euthanized only after the mandatory hold period, as mandated by provisions in the Food and Agricultural Code, has elapsed from the time said animal was apprehended, except when immediate euthanasia of the animal is authorized by State law.
11. Authority shall provide a method of animal euthanasia acceptable to the State, County and Town. All applicable Federal, State, County and Town guidelines shall be followed and the Authority is responsible for employing trained and certified personnel who have been properly trained and certified in performing animal euthanasia.

12. Authority shall obtain prior written approval from County or Town for euthanasia of any animal held at shelter due to a criminal or civil court case involving said animal.
13. Authority shall provide spay or neuter services for adopted animals.
14. Authority shall collect apprehension, shelter and related penalty fees, on behalf of and as directed by Members, using established fees prescribed by County and Town. Authority shall issue receipts for all fees collected and shall keep copies thereof for review and/or audit by County or Town.
15. Authority shall sell and issue dog licenses on behalf of Members to residents living in the Service Areas described in Section II.A.8, above using the fees established by County and Town. The JPA Board will establish a combined fee structure/rate schedule to pay for JPA services. Authority shall issue receipts for all license fees collected and shall keep copies thereof for review and/or audit by County or Town.
16. Authority shall attempt to collect the requisite sums for license fees, where applicable, for all dogs returned to owner or adopted if their dog is four months of age or older, using the prescribed established County or Town fees. Authority shall issue receipts for all such fees collected and shall keep copies thereof for review by County or Town.
17. In the event that a dog impounded by Authority is returned to an owner who is a resident of the Service Areas, or is adopted by a resident of the Service Areas, and no license fee is collected by Authority, Authority shall report to County or Town within fifteen days of adoption or redemption the description of the animal adopted or redeemed and the name(s) and address of the person(s) adopting or redeeming the dog.
18. Authority shall verify dog license status on all impounded dogs for the purpose of ascertaining the number of unlicensed dogs and to foster compliance with County and Town codes.
19. Authority shall maintain records of all animals delivered to Authority by parties authorized in Section II.A.1, above.
20. Within thirty (30) days following the end of the quarter, Authority shall provide to County and Town on a quarterly basis the following information for all animals received by Authority from the Service Areas:
 - a. Number of animals (by species) surrendered by owners.
 - b. Number of stray animals (by species) impounded.
 - c. Number of dead animals (by species) delivered to the shelter.
 - d. Number of injured animals (by species) impounded.
 - e. Number of animals held for observation (by species) and the number of days each animal was held.
 - f. Number of sick/injured animals (by species) received at the shelter.
 - g. Number of animals adopted (by species) or redeemed.
 - h. Number of animal intake (by species) at the shelter.

- i. Number of animals euthanized (by species), if applicable.
 - j. Number of days an animal stayed (by species) in the shelter.
 - k. Number of licenses sold showing the license number that was issued, description of the animal adopted or redeemed, name(s) and addresses(s) of all persons adopting or redeeming, specifying areas of residence whether in the unincorporated area of the County or within the boundaries of a city at the time of the transfer.
 - l. Copy of signed impound slip as described in Section II.B.3., above.
 - m. All information required by Food and Agricultural Code section 32003.
21. Authority shall provide adequate parking for the public, exterior lighting for Animal Control Officer Safety, washout area for all animal control vehicles, and perimeter fencing for containment of escaped animals.

ATTACHMENT B
JOINT FUNDED ANIMAL SHELTER PROJECT

I. OBLIGATIONS

- A. The Town and the County have agreed to provide equal, matching funds for the capital costs of constructing an animal shelter in or near Yucca Valley, California (the Facility) in accordance with the minimum standards prescribed by the State of California and the governing Health Department. The total cost of the Facility shall not exceed Three Million Five Hundred Thousand Dollars (\$3,500,000). The actual cost of the Facility shall be determined upon receipt of bids for same, pursuant to the Public Contracting Code, as described in Section II "Facility Design and Construction", below.
- B. The County has agreed to pay to Authority up to One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000) toward the cost of constructing the Facility and will appropriate Eight Hundred Seventy-Five Thousand Dollars (\$875,000) in Fiscal Year (FY) 2008-9, Four Hundred Thirty-Seven Thousand Five Hundred Dollars (\$437,500) in FY 09-10, and Four Hundred Thirty Seven Thousand Five Hundred Dollars \$437,500 in FY10-11 for this purpose. The Town agrees to appropriate and pay to Authority an equal matching amount over the same period.
- C. The use and expenditure of the County investment related to this Agreement is restricted to the development and construction of the Facility to be located within the Town or the unincorporated areas surrounding the Town. The JPA Board will decide the location of the site. County funds shall not be utilized for any other operational or capital improvements other than the aforementioned Facility.
- D. To facilitate the performance of functions as provided for in this Agreement, it is hereby agreed that the officers, agents, and employees of the Authority and Members shall provide full cooperation and assistance to the other Members .
- E. In the performance of this Agreement, the officers, agents and employees of the Authority and Members shall act in an independent capacity.
- F. It is understood that the funds contributed by the County and Town for the development and construction of the Facility shall be held by Authority in a separate, interest-bearing account to be maintained at an institution agreed upon by the Members (the Shelter Joint Special Revenue Fund (hereafter referred to as the "Joint Fund"). Within fifteen (15) days of receipt by Authority of County funds pursuant to this Agreement, Town shall pay to Authority an equivalent amount of Town funds or identify an alternative Town financing arrangement agreeable to the County. Interest to be paid on the County or the Town funds deposited into the Joint Fund shall accrue within the Joint Fund and be attributable to the joint fund collectively, without regard to funds being attributable to either County or Town individually.

II. FACILITY DESIGN AND CONSTRUCTION

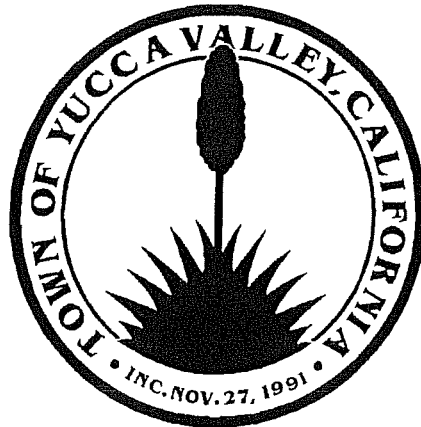
- A. The Authority shall function as the Project Manager for this project and shall retain all architects, contractors, engineers, environmental compliance and/or other professionals associated with the construction, construction management, design, environmental compliance or site selection to establish the appropriate site and cost of the Facility.
- B. As the location, design, engineering and specifications of the Facility are not identified at this time, the Members and Authority agree that all designs and specifications for Facility will be jointly developed and approved prior to the procurement or commitment of funds for architects, contractors, engineers, environmental compliance and/or other professionals associated with

the construction, construction management, design, environmental compliance or selection of site. Authority acknowledges that County's review and approval of Facility designs and specifications shall include review by County's Department of Architecture and Engineering, and Authority agrees to reimburse County for costs related to such review.

- C. Authority agrees to engage in a competitive bid process pursuant to the Public Contract Code for all Facility-related project expenses including, but not limited to, construction, construction management, design, environmental compliance, site selection, and project close out, and that the results of such competitive bid process shall be jointly reviewed and approved by the Members prior to the selection of vendors and/or the awarding of contracts.
- D. Authority will make all accounting records, charges, project budgets, reports including audit reports, and transaction costs related to the Facility project, available for inspection and copying by the Members within receipt of seventy-two (72) hours' prior written notice.
- E. It is further agreed by the Members that continued funding for this project beyond Year 1 is dependent upon the Authority making significant progress toward the successful development and construction of the Facility. The following benchmarks have been established to monitor the Authority's performance for this project:
 - 1. Site Selection: to be completed within twelve (12) months from effective date of this Agreement.
 - 2. Environmental Compliance: to be completed within twenty-four (24) months from effective date of this Agreement.
 - 3. Facility Design: to be completed within thirty-six (36) months from effective date of this Agreement.
 - 4. Project Construction: to be completed within forty-eight (48) months from effective date of this Agreement.
- F. Should Authority encounter unanticipated delays in the construction of the Facility, that would make it impossible to meet the benchmarks specified above, Authority shall provide immediate written notice to the Members. Upon receipt of such notice, representatives of the Members shall confer with the Authority's Manager (to be approved by the JPA Board) and/or his/her designee regarding the delay and the estimated new completion date of the project. The Members may then allow the Authority additional time needed to complete the benchmark. However, any modification to the benchmarks must be approved in writing by the Members.

Town Council Agenda – December 1, 2009

TOWN OF YUCCA VALLEY
TOWN COUNCIL MEETING



*The Mission of the Town of Yucca Valley is to
provide a government that is responsive to its citizens
to ensure a safe and secure environment
while maintaining the highest quality of life.*

**THURSDAY, DECEMBER 1, 2009
TOWN COUNCIL: 6:00 p.m.
YUCCA VALLEY COMMUNITY CENTER
YUCCA ROOM
57090 - 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284**

**CLOSED SESSIONS
YUCCA VALLEY TOWN HALL CONFERENCE ROOM
57090 – 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284**

* * * *

TOWN COUNCIL
Frank Luckino, Mayor
Chad Mayes, Mayor Pro Tem
Lori Herbel, Council Member
George Huntington, Council Member
Bill Neeb, Council Member

* * * *

TOWN ADMINISTRATIVE OFFICE:
760-369-7207
www.yucca-valley.org

**AGENDA
MEETING OF THE
TOWN OF YUCCA VALLEY COUNCIL
TUESDAY, DECEMBER 1, 2009 6:00 P.M.**

The Town of Yucca Valley complies with the Americans with Disabilities Act of 1990. If you require special assistance to attend or participate in this meeting, please call the Town Clerk's Office at 369-7209 at least 48 hours prior to the meeting.

If you wish to comment on any subject on the agenda, or any subject not on the agenda during public comments, please fill out a card and give it to the Town Clerk. The Mayor/Chair will recognize you at the appropriate time. Comment time is limited to 3 minutes.

(WHERE APPROPRIATE OR DEEMED NECESSARY, ACTION MAY BE TAKEN ON ANY ITEM LISTED IN THE AGENDA)

OPENING CEREMONIES

CALL TO ORDER

ROLL CALL: Council Members Herbel, Huntington, Mayes, Neeb, and Mayor Luckino.

PLEDGE OF ALLEGIANCE

INVOCATION

AGENCY REPORTS

Hi Desert Water District

1. Monthly Wastewater Treatment System Update.

APPROVAL OF AGENDA

Action: Move _____ 2nd _____ Voice Vote _____

CONSENT AGENDA

- 1-13 2. Regular Town Council Meeting Minutes of November 17, 2008.

Recommendation: Approve minutes as presented.

3. Waive further reading of all ordinances (if any in the agenda) and read by title only.

Recommendation: Waive further reading of all ordinances and read by title only.

- 14-15 4. Treasurer's Report for Quarter Ending September 30, 2009

Recommendation: Receive and File the Treasurer's Report for 1st Quarter FY 2009-10 and direct staff to transmit the investment report to the California Debt and Investment Advisory Commission (CDIAC)

- 16-18 5. AB 1234 Reporting Requirements

Recommendation: Receive and file the AB 1234 Reporting Requirement Schedule for the month of November, 2009.

- 19-274 6. Award of Contract, Fortuna Avenue Reconstruction from San Andreas Road to Santa Barbara Drive, Town Project NO. 8351.

Recommendation: Approve the award of contract for the reconstruction of Fortuna Avenue from San Andreas Road to Santa Barbara Drive, Town Project No. 8351 to Palm Canyon Contractors, Inc. in the amount of Two Hundred Seventy One Thousand Five Hundred Forty One Dollars (\$271,541.00); establish a \$27,150 contingency and \$5,000 administrative costs and authorize the Town Manager, Town Attorney, and the Mayor to sign all necessary documents; and authorize the Town Manager to expend the contingency if necessary to complete the project.

- 275-282 7. Warrant Register – December 1, 2009

Recommendation: Ratify Warrant Registers in the amount of \$485,592.95 for expenses dated November 20, 2009. Ratify the Payroll Registers in the amount of \$174,827.14 dated November 13, 2009.

All items listed on the consent calendar are considered to be routine matters or are considered formal documents covering previous Town Council instruction. The items listed on the consent calendar may be enacted by one motion and a second. There will be no separate discussion of the consent calendar items unless a member of the Town Council or Town Staff requests discussion on specific consent calendar items at the beginning of the meeting. Public requests to comment on consent calendar items should be filed with the Town Clerk/Deputy Town Clerk before the consent calendar is called.

Recommendation: Adopt Consent Agenda (items 2-7)roll call vote)

Action: Move _____ 2nd _____ Roll Call Vote _____

REORGANIZATION OF TOWN COUNCIL

8. Selection of Mayor

Town Clerk to accept nominations for Mayor.

Recommendation: Nominate a Council Member to serve as Mayor for 2010

Action: Move _____ 2nd _____ Voice Vote

9. Selection of Mayor Pro Tem

Mayor to take nominations for Mayor Pro Tem

Recommendation: Nominate a Council Member to serve as Mayor Pro Tem for 2010

Action: Move _____ 2nd _____ Voice Vote

10. Presentations

DEPARTMENT REPORTS

283-284 11. Fiscal Year 2008-09 Comprehensive Annual Financial Report

Staff Report

Recommendation: Receive and File the FY 2008-09 Comprehensive Annual Financial Report.

Action: Move _____ 2nd _____ Roll Call Vote _____.

285-288 12. Approval of Animal JPA Payment Transfer and Adoption of Related Reimbursement Resolution.

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, EXPRESSING OFFICIAL INTENT REGARDING CERTAIN CAPITAL EXPENDITURES TO BE REIMBURSED WITH PROCEEDS OF OBLIGATIONS

Staff Report

Recommendation: Authorize the payment of the Town's first Animal JPA Shelter Project contribution payment in the amount of \$437,500

to the County Treasurer and adopt the Resolution expressing official intent regarding certain capital expenditures to be reimbursed with proceeds of obligations.

Action: Move _____ 2nd _____ Roll Call Vote _____.

289-290 13. Appointment of Alternate to SANBAG

Staff Report

Recommendation: Appoint a Council Member to act as alternate to SANBAG

Action: Move _____ 2nd _____ Voice Vote _____.

POLICY DISCUSSION

291-404 14. Medical Marijuana Dispensaries, Direction to Planning Commission and Staff

Staff Report

Recommendation: Provide direction to the Planning Commission and Staff on medical marijuana dispensaries in Town boundaries.

Action: Move _____ 2nd _____ Voice Vote _____.

405-407 15. 2011 Federal Legislative Priorities, Town Council Policy Direction

Staff Report

Recommendation: Discuss legislative programs and projects and identify priorities for 2011.

Action: Move _____ 2nd _____ Voice Vote _____.

FUTURE AGENDA ITEMS

PUBLIC COMMENTS

In order to assist in the orderly and timely conduct of the meeting, the Council takes this time to consider your comments on items of concern which are on the Closed Session or not on the agenda. When you are called to speak, please state your name and community of residence. Notify the Mayor if you wish to be on or off the camera. Please limit your comments to three (3) minutes or less. Inappropriate behavior which disrupts, disturbs or otherwise impedes the orderly conduct of the meeting will result in forfeiture of your public comment privileges. The Town Council is prohibited by State law from taking action or discussing items not included on the printed agenda.

STAFF REPORTS AND COMMENTS

MAYOR AND COUNCIL MEMBER REPORTS AND COMMENTS

16. Council Member Luckino
17. Council Member Huntington
18. Council Member Neeb
19. Council Member Herbel
20. Mayor Mayes

FUTURE AGENDA ITEMS

COMMITTEE REPORTS

If the 2+2 Committees have met, Committee Members may report on discussion items.

- A. Town of Yucca Valley (Huntington, Herbel)/Hi Desert Water District.**
- B. Town of Yucca Valley (Luckino, Mayes)/Morongo Unified School District**
- C. Town of Yucca Valley (Mayes, Neeb)/Chamber of Commerce**
- D. Town of Yucca Valley (Mayes, Neeb)/Caltrans**
- E. Town of Yucca Valley (Herbel, Huntington)/Airport District**
- F. Town of Yucca Valley (Mayes, Herbel)/Copper Mountain College**
- G. Town of Yucca Valley(Herbel, Huntington)/Surrounding community associations**

ANNOUNCEMENTS

Time, date and place for the next Town Council meeting or Study Session.

Next Town Council Meeting, Tuesday, December 15, 2009, 6:00 p.m.

CLOSING ANNOUNCEMENTS

CLOSED SESSION

21. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Subsection (a) of Section 54956.9(a), Ronald Green and Sharon Green vs. County of San Bernardino, City of Yucca Valley, Case No. CIVMS 800111, Center for Biological Diversity vs. Town of Yucca Valley, Town Council of Yucca Valley, Case No. CIVBS 800607; Coalition for Environmental Integrity in Yucca Valley vs. Town of Yucca Valley, Town Council of the Town of Yucca Valley, Case No.

CIVSS 810232, Superior Court of California, County of San Bernardino.

22. Government Code Section 54956.8, Conference with Real Property Negotiators. *State law provides the opportunity for closed session for real property purchase negotiations, prior to placement of the matter on a regularly scheduled meeting agenda for formal action.*

Property: APN 586-031-36, 594-031-09 & 23, 595-041-34 & 35; 55100 Martinez Trail

Blue Sky Golf LLC/Town of Yucca Valley
Shane Stueckle, Real Property Negotiator
Real Property Negotiations

Property: APN 595-162-08 & 09 South West corner of Joshua Lane and Twentynine Palms Outer Highway

Town of Yucca Valley/Yucca Valley Redevelopment Agency
Andrew Takata, Real Property Negotiator
Real Property Negotiations

ADJOURNMENT

Second Amendment to JPA Agreement including

SECOND AMENDMENT
TO THE
JOINT POWERS AGREEMENT
CREATING THE
ANIMAL CARE JOINT POWERS AUTHORITY

THIS SECOND AMENDMENT (this "Amendment") TO THE ANIMAL CARE JOINT POWERS AUTHORITY JOINT POWERS AGREEMENT dated November 18, 2008 (the "Agreement") is by and among the Town of Yucca Valley ("TOWN") and San Bernardino County ("COUNTY"). The TOWN and COUNTY are occasionally referred to herein collectively as the "parties" and individually as a "party".

RECITALS

WHEREAS, on or about November 18, 2008, the TOWN and the COUNTY (jointly and severally the "Members") joined contractually through the Agreement, to create the Animal Care Joint Powers Authority ("Authority") for the purposes set forth in that Agreement; and,

WHEREAS, the Authority has properly taken all preliminary actions necessary under this Agreement and the law to receive and has received formal bids for the construction of the Animal Care and Control Facility (a.k.a. the "Animal Shelter") as provided for in Section 2.01, Purpose, of the Agreement; and,

WHEREAS, the responsive lowest bid amount for the construction of the Animal Shelter, along with a reasonable contingency, the costs of design, environmental compliance, furniture and equipment, and other necessary expenses for the Animal Shelter are greater than the anticipated funding amount provided for in the original Agreement at its Attachment B, JOINT FUNDED ANIMAL SHELTER PROJECT; and,

WHEREAS, the Members now desire to amend the Agreement and its Attachments as necessary to provide sufficient funding to cover the anticipated construction, outfitting and initial operating costs for the Animal Shelter; and,

WHEREAS, the Members now also desire to amend the Agreement to provide for termination of the Agreement after completion of construction, outfitting and initial operation of the Animal Shelter.

NOW, THEREFORE, in consideration of the above understandings and the mutual promises and agreements herein contained, the Members do hereby agree to amend the Agreement as follows:

1. The original Agreement is hereby amended to DELETE existing Agreement **Section 2.01, Purpose**, and Attachments A and B relating thereto, in their entirety and REPLACE them with the following as a new **Section 2.01, Purpose**, and the attached as new Attachments A, Proposed Workplan; B, Joint Funding Agreement; C, Operational Agreement; and D, Co-Ownership Agreement, as follows:

"Section 2.01. Purpose. In accordance with Section 6503 of the Act, the purpose of this Agreement is to provide for the exercise of powers common to each Member, including but not limited to, the creation of the Authority to provide for the financing, planning, design, construction, operation and maintenance of an Animal Care and Control Facility in the Town of Yucca Valley, to provide animal services and shelter to both the residents in the incorporated areas of the Town and the unincorporated areas of the County. The Agreement and the following Attachments are intended to provide a framework for construction and future operations of the replacement Animal Care and Control Facility:

- Attachment A, Proposed Workplan, is the proposed workplan to construct a new Animal Care and Control Facility;
- Attachment B, Joint Funding Agreement, sets forth the main obligations and processes for the construction and funding plan in which the Members agree to jointly fund the Animal Care and Control Facility with the Town making contributions to fund fifty percent (50%) of this capital improvement project over a twenty (20) year period as outlined in Attachment B;
- Attachment C, Operational Agreement, represents a draft operational plan after construction of the Animal Care and Control Facility is completed; and
- Attachment D, Co-Ownership Agreement, sets forth the Members agreement reflecting ownership interests in the new Animal Care and Control Facility upon any termination of this Agreement."

2. The original Agreement is hereby amended to CHANGE the title of "**ARTICLE V, CONTRIBUTIONS, ASSETS AND DISTRIBUTION UPON TERMINATION**" to read as "**ARTICLE V, CONTRIBUTIONS**".

3. The original Agreement is hereby amended to DELETE **Section 5.02, Distribution of Assets upon Termination**, in its entirety.

4. The original Agreement is hereby amended to ADD the following as a new **ARTICLE IIX, TERMINATION:**

"ARTICLE IIX

TERMINATION

Section 8.01. Termination of Agreement and Authority. The Members hereby mutually agree, pursuant to **Section 2.02, Term**, that this Agreement and the Authority thereby created shall be terminated at midnight, June 30, 2014. Notwithstanding the forgoing, the Authority shall continue to exist after June 30, 2014, for the sole purpose of dissolving itself, distributing its assets and other activities necessary to properly dissolve itself.

Section 8.02. Distribution of Surplus Money. Upon termination of this Agreement and after resolution of all debts, liabilities and obligations, all surplus money, if any, of the Authority shall, pursuant to Section 6512 of the Act, be divided among the Members proportional to the contributions made by the respective Members.

Section 8.03. Distribution of Assets Other Than Surplus Money. All assets, both real and personal, other than surplus money, including but not limited to the Animal Care and Control Facility and its furnishings and equipment, shall be distributed to the Members as set forth in Attachment D, Co-Ownership Agreement."

5. Except as specifically amended by this Amendment and the First Amendment to the Agreement, all other provisions and terms of the Agreement shall remain the same, in full force and effect, and are hereby incorporated by this reference.

6. This Amendment shall be effective when approved by both Members.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their duly authorized officers, and their official seal to be hereto affixed, as of the day and year written.

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

Josie Gonzales, Chair
Board of Supervisors

Dawn Rowe, Mayor
Town of Yucca Valley

Dated: _____

Dated: _____

SIGNED AND CERTIFIED THAT A
COPY OF THIS DOCUMENT HAS
BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

SIGNED AND CERTIFIED THAT A
COPY OF THIS DOCUMENT HAS
BEEN DELIVERED TO THE
MAYOR OF THE TOWN

Laura Welch, Clerk of the Board
of Supervisors

Janet M. Anderson, Town Clerk

By: _____
Deputy

By: _____
Deputy

Date: _____

Date: _____

Approved as to Legal Form:

Approved as to Legal Form:

JEAN-RENE BASLE
County Counsel

LONA N. LAYMON
Town Counsel

By: _____
Rex A. Hinesley, Deputy

By: _____

Date: _____

Date: _____

PROPOSED WORKPLAN**I. WORKPLAN**

The Authority shall accomplish the following Steps over the next twelve (12) months, after the Town and County approve the Amendment:

Step 1: (0 to 3 months)

The JPA Board will accept from the Town a parcel of land that will serve as the proposed project location for the replacement Animal Care and Control Facility in the Town (the "Project"). The JPA Board will require title insurance for the proposed Project site and will obtain said insurance.

As of the date of the Amendment, the Board of the Authority already completed a competitive solicitation bid process to select a general contractor to construct the replacement Animal Care and Control Facility. The Town and County, by approving the Amendment have acknowledged and approved the recommendation to award the construction contract for the Project in the amount of \$2,881,200 to the lowest responsive bidder obtained through the competitive bid process. The JPA shall oversee the construction of the replacement Animal Care and Control Facility and appoint a Construction Project Manager (Project Manager) who will oversee the construction of the Project through completion (which completion shall be demonstrable by issuance of a certificate of occupancy). The Project Manager will have authority to approve change orders during the course of construction in an amount to be established and within a limited contingency budget to be determined and approved by the JPA Board.

Step 2: (4 to 6 months)

The JPA Board, during its regularly scheduled meetings, will receive reports from the Town and Project Manager regarding the status of the construction Project and any change order modifications that have been suggested and approved by the Project Manager within the established spending limits. The JPA Board will address any issues or considerations that may arise during construction.

Step 3: (7 to 9 months)

The Board of the Authority proceeds with construction Project oversight. The Project Manager will be tasked with developing recommendations for furnishings, fixtures, and equipment which will be obtained through a traditional competitive bid process. The JPA Board will be authorized with approving expenditures for the necessary equipment and fixtures up to the established Project budget parameters.

Step 4: (10 to 12 months)

The Board of the Authority will receive a construction completion report and summary from the general contractor and acknowledge any cost savings that may result from contingencies established within the Project budget. The Authority will recommend any modifications to contribution schedule outlined in Attachment B, Table F-1, and will ensure any credits realized from the construction Project are proportionally credited to both Town and County. The JPA Board will be required to ensure that title to the completed Facility is conveyed to both parties. The Co-Ownership Agreement, Attachment D, outlines ownership interest by both the County and Town.

II. SCOPE OF SERVICES

A. **DEFINITIONS**—The following definitions apply to all Attachments in the Amendment:

1. **Authority** - Shall mean the Animal Care Joint Powers Authority, the separate agency created by the ANIMAL CARE JOINT POWERS AUTHORITY JOINT POWERS AGREEMENT dated November 18, 2008.
2. **County** - San Bernardino County.
3. **CPI** - Consumer Price Index for the Riverside-San Bernardino-Ontario region.
4. **Facility** - An animal care and control facility in the Town of Yucca Valley, to provide animal services and shelter to both the residents in the incorporated areas of the Town and the unincorporated areas of the County.
5. **Town** - Town of Yucca Valley, a California general law city.
6. **Operational Services** – The Town shall provide a series of services to the County as defined in Attachment C (Operational Agreement); these services are referred to as "Operational Services". A portion of the value of Operational Services will be credited to the County annually as the Operational Services Credit (as defined below).
7. **Operational Services Credit** – Rather than provide a direct monetary contribution in coming years, the Town proposes to provide Operational Services over the next 20 years, with the value of such Services being credited towards the Town's Contribution, up to the maximum amounts as reflected in Attachment B, Table F-1 (the "Operational Services Credit"). The value of the Operational Services Credit shall accrue on a service-by-service basis each fiscal year, and shall be valued based upon the rates and fees presented in the Operational Agreement at Attachment C. The County agrees to accept the Town's provision of Operational Services in lieu of monetary contributions; however, nothing herein shall preclude the Town from making its Town Contributions, or making further Town Contributions, via a direct monetary payment as permitted by law.
8. **Town Contributions** – The "Town Contribution" means the Town's commitment to contribute to the costs of Facility construction, up to a maximum of 50% of the costs of Facility construction (with 50% of construction costs being approximately \$1,875,000). The Town Contribution shall be made via monetary contributions or through the Operational Services Credit. To date, the Town has already made a cash deposit with the Authority, contributed or will contribute assets in the form of property, provided in-kind services, and paid or will pay direct expenses associated with the design and construction of the Facility.

B. TOWN RESPONSIBILITIES

1. Town has established a revised Operational Services Credit schedule which is included in Attachment B, Table F-1, in which the County will receive or experience a "cost savings" in operational costs beginning FY 2014/15 and subsequent years of operation in the new facility through year twenty (20) as outlined in Attachment B. Any cost savings realized from project contingencies will be credited to County and Town proportionally.
2. Town will ensure EDA/RDA funds were not used for the purchase of the property proposed for the Facility. The JPA Board agrees to ensure a title insurance policy is obtained for the Facility property prior to the start of construction.
3. The modified Town Contribution amount may change as cost savings are realized during construction, or if the Town elects to not make a specific contribution as outlined within the Town's Contribution schedule included in Attachment B, Table F-2. Any changes will be reflected in the Town's Operational Services Credit Schedule.

C. COUNTY RESPONSIBILITIES

1. County agrees to fund a majority of the construction costs and to exchange ownership interest for Operational Services Credit provided by the Town over the next 20 years. A preliminary contribution schedule is outlined in Attachment B.

D. TOWN & COUNTY RESPONSIBILITIES

1. The Town and County agree that the values of the current shelter (\$60,000) and the value of the land for the replacement shelter (\$60,000) will be credited towards the Town Contribution.
2. There is the potential of a one-time cost impact for furnishing and/or equipment in year one. Both the Town and County will pay for any additional equipment needed on a 50/50 basis that may be an operational budget impact in year one.
3. The Town and the County have agreed to provide equal, matching investment for the capital costs of constructing the Facility in or near Yucca Valley, California in accordance with the minimum standards prescribed by the State of California and the governing Health Department. The total cost of the Facility shall not exceed Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000).
4. The Town and County agree that the work/services rates reflected in the Operational Agreement represent a fair market value for such animal sheltering services and may be updated by mutual written agreement of the Parties from time to time.

E. FACILITY DESIGN AND CONSTRUCTION

1. The Authority will appoint a Project Manager who will be the primary point of contact during the construction of the Facility.
2. Authority will establish a procurement amount in which the Project Manager will have authorization to approve change orders. Authority will receive a monthly status report of all change orders approved by the Project Manager.

III. OTHER

1. The current shelter facility will become a jointly-owned asset of the Town/County as part of this transaction. Future costs to re-task that facility will be included in capital budgets for the shelter to be jointly shared by the Town/County.
2. The current JPA will dissolve on June 30, 2014, after a point in time when construction is expected to be complete and 1) the Inspection Sign-Off Sheet assigned to the project has been signed by the governing inspecting body and 2) the Certificate of Occupancy has been issued by the Jurisdictional Fire Department.
3. A budget has been established to pay for operational costs to operate the Facility in fiscal year 2014/15. A CPI or other cost increase provision will be established for potential cost impacts in future years. The proposed operating budget is included in Attachment C – Operational Agreement. If the Facility enters operation prior to the start of FY 14/15, the Operational Agreement in place for FY 13/14 will be applicable.
4. As the Town provides annual Operational Service Credit to the County, the percentage of Facility ownership would increase proportionally until such time that ownership is 50/50. Once Operational Service Credits are completed, both the Town and County would retain ownership of the replacement Facility.
5. If either party wishes to depart from the Agreement and/or Amendment thereto, the Facility ownership would revert back to the non-terminating party. After the Town share reaches 50%, the operation of the Facility will continue to remain a Town responsibility with the County contracting for animal sheltering services.
6. In no event shall a default of the Agreement or Amendment, or breach of any other agreement pertaining to or arising from the Facility, result in a right under any circumstances to accelerate the Town's Contribution, or otherwise declare any Town Contribution not then in default to be immediately due and payable.
7. The Town Contribution shall not be made in the form of monetary contributions from the Town's General Fund; rather, the Town may make one-time contributions from Special Revenue funds and/or the annual provision of Operational Service Credits.

JOINT FUNDING AGREEMENT

I. OBLIGATIONS

- A. The terms used herein shall bear the same meanings/definitions as ascribed to them in Attachment "A"
- B. The Town and the County have agreed to provide equal, matching investments for the capital costs of constructing the Facility in accordance with the minimum standards prescribed by the State of California and the governing Health Department. The total cost of the Facility shall not exceed Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000) including architect design, project management, biological tests, plan check services (County Fire and Town), electrical service extension, soil testing, specialized inspections, construction, construction management and contingencies. The actual cost of the Facility shall be determined upon receipt of bids for same, pursuant to the Public Contracting Code, as described in Section II "Facility Design and Construction", below.
- C. The County has agreed to pay to Authority an amount not to exceed Three Million Three Hundred Twelve Thousand Five Hundred Dollars (\$3,312,500.) toward the cost of constructing the Facility. The Town made a monetary Town Contribution by depositing Four Hundred Thirty Seven Thousand Five Hundred (\$437,500) with the Authority towards the construction of the new Facility and agrees to acquire additional ownership interest in the Facility (up to a 50% interest in the Facility and its land) through the provision of annual Operational Services Credit.
- D. The Operational Services Credit accrues annually and is credited to the County each year over a twenty (20) year period as shown in Table F-1 hereto.
- E. Upon dissolution of the JPA, the County will own a majority share of the ownership interest in the Facility and its underlying site. For each annual Operational Services Credit, and any other Town Contribution made toward the Facility, the Town shall receive an increased percentage of ownership interest in the co-owned Facility. The value of Operational Services Credit shall accrue on a service-by-service basis each fiscal year, and shall be valued based upon the rates and fees presented in the adopted Operational Agreement (Amendment Attachment C). The Town and County agree that the work/services rates reflected in the Operational Agreement represent a fair market value for such animal sheltering services and may be updated by mutual written agreement of the Parties from time to time.
- F. The Town has already committed or will commit substantial Town Contributions, as presented in Table F-2, including a deposit with the Authority, contributed assets in the form of property, provided in-kind services, and paid or will pay direct expenses associated with the design and construction of the Facility. Future Town Contributions towards the balance of the Town's share of Facility construction costs will include Operational Services Credits or further monetary payments as permitted by law.
- G. The Town may elect to make additional Town Contributions from Town special revenue funds, thereby accelerating the acquisition of ownership interest, as permitted by law.
- H. The use and expenditure of the County's investment related to this Agreement and Amendment is restricted to the development and construction of the Facility to be located within the Town or the unincorporated areas surrounding the Town. County funds shall not be utilized for any other operational or capital improvements other than the aforementioned Facility.

- I. To facilitate the performance of functions as provided for in this Agreement, it is hereby agreed that the officers, agents, and employees of the Authority and Members shall provide full cooperation and assistance to the other Members.
- J. In the performance of this Agreement, the officers, agents and employees of the Authority and Members shall act in an independent capacity.
- K. It is understood that the funds contributed by the County and Town for the development and construction of the Facility shall be held by Authority in a separate, interest-bearing account to be maintained at an institution agreed upon by the Members (the Shelter Joint Special Revenue Fund, hereafter referred to as the "Joint Fund").

II. FACILITY DESIGN AND CONSTRUCTION

- A. The Authority shall function as the Project Manager for this project and retains all architects, contractors, engineers, environmental compliance and/or other professionals associated with the construction, construction management, design, environmental compliance or site selection to establish the appropriate site and cost of the Facility.
- B. The Members and Authority agree that all designs and specifications for Facility have been jointly developed and approved prior to the commitment of funds for architects, contractors, engineers, environmental compliance and/or other professionals associated with the construction, construction management, design, environmental compliance or selection of site. Authority acknowledges that County's review and approval of Facility designs and specifications included review by County's Department of Architecture and Engineering.
- C. Authority has engaged in a competitive bid process pursuant to the Public Contract Code for all Facility-related project expenses including, but not limited to, construction, construction management, design, environmental compliance, and project close out, and that the results of such competitive bid process shall be jointly reviewed and approved by the Authority Board prior to the selection of vendors and/or the awarding of contracts.
- D. Authority will make all accounting records, charges, project budgets, reports including audit reports and transaction costs related to the Facility project, available for inspection and copying by the Members within receipt of seventy-two (72) hours prior written notice.
- E. Should Authority encounter unanticipated delays in the construction of the Facility, Authority shall provide immediate written notice to the Members. Upon receipt of such notice, representatives of the Members shall confer with the Authority's Manager (to be approved by the Authority Board) and/or his/her designee regarding the delay and the estimated new completion date of the project. The Members may then allow the Authority additional time needed to complete the project.
- F. The following Table F-1 provides an Operational Services Credit Schedule demonstrating how the Town's Operational Services Credit will accrue over a 20-year period in exchange for the Town's annual increase in ownership of the Facility. In other words, each year Operational Services will be accrued and credited to the County annually over 20 years, which Credit serves to purchase the Town additional ownership interests in the co-owned Facility. The Town utilized table F-2 to determine Town Contributions made during the construction period. If the Town elects to not make a specific contribution to the project, the amount of the Town's Operational Services Credit to the County will be increased proportionally in Table F-1 to reflect actual contributions made by the Town.

TABLE F-1:

20-year Operational Services Credit Schedule						
Fiscal Year	Operational Services Credit Annual Amount	Total Town Contribution	Town Ownership %			
		\$ 795,730.00	21%	Total Costs	\$ 3,750,000	
2014-15	\$ 53,963.50	\$ 849,693.50	23%			
2015-16	\$ 53,963.50	\$ 903,657.00	24%	Town Share	\$ 1,875,000	50%
2016-17	\$ 53,963.50	\$ 957,620.50	26%	Town Contributions	\$ (795,730)	
2017-18	\$ 53,963.50	\$ 1,011,584.00	27%			
2018-19	\$ 53,963.50	\$ 1,065,547.50	28%	Town Balance	\$ 1,079,270	
2019-20	\$ 53,963.50	\$ 1,119,511.00	30%			
2020-21	\$ 53,963.50	\$ 1,173,474.50	31%			
2021-22	\$ 53,963.50	\$ 1,227,438.00	33%			
2022-23	\$ 53,963.50	\$ 1,281,401.50	34%			
2023-24	\$ 53,963.50	\$ 1,335,365.00	36%			
2024-25	\$ 53,963.50	\$ 1,389,328.50	37%			
2025-26	\$ 53,963.50	\$ 1,443,292.00	38%			
2026-27	\$ 53,963.50	\$ 1,497,255.50	40%			
2027-28	\$ 53,963.50	\$ 1,551,219.00	41%			
2028-29	\$ 53,963.50	\$ 1,605,182.50	43%			
2029-30	\$ 53,963.50	\$ 1,659,146.00	44%			
2030-31	\$ 53,963.50	\$ 1,713,109.50	46%			
2031-32	\$ 53,963.50	\$ 1,767,073.00	47%			
2032-33	\$ 53,963.50	\$ 1,821,036.50	49%			
2033-34	\$ 53,963.50	\$ 1,875,000.00	50%			

TABLE F-2

Projected Town Contribution Summary

Description	Amount	
TOTAL CONTRIBUTION/CREDIT	\$ 795,730	
Project Management Costs	\$ 37,192	Town Provided Services – Fixed Price Proposal
Biological Assessment – Tortoise	\$ 11,500	Circle Mountain Biological Consultants
Fire Department Plan Check Services	\$ 3,157	County of San Bernardino
Town Plan Check Services	\$ 10,594	Charles Abbott Associates
Electrical Services Extension	\$ 6,975	Southern California Edison (estimate)
Soils Testing	\$ -	Included in Specialized Inspections
Specialized Inspections	\$ 40,000	Engineer's Estimate
Water Service extension / hydrants	\$ 40,000	Engineer's Estimate
Town Deposit to JPA	\$ 437,500	funds deposited with JPA
Land Purchase	\$ 60,000	credited to Town
Current Shelter value	\$ 60,000	credited to Town
Development Impact Fees	\$ -	Source for Specialized Inspections / Water Service
Crya Wells Estate Donation	\$ 60,000	to be deposited with JPA
Construction Management	\$ 28,812	Alex Qishta Time (1% of construction contract)

G. Town and County will reconcile actual project costs to determine if cost savings were achieved in the established budgets and will ensure the total project cost for construction is shared at a 50/50 ratio, including the Town's provision of Operational Services Credit over a twenty (20) year period. The County's Auditor, Controller, Treasurer, Tax Collector who serves as the Treasurer for the Animal Care Authority will audit the transactions at year end to recommend appropriate adjustments are made to the modified contribution schedule to ensure the 50% ownership of the Facility is achieved.

- H. In no event shall a default of the Agreement, or breach of any other agreement pertaining to or arising from the Facility, result in a right under any circumstances to accelerate the Town's Operational Services Credit.
- I. The Town Contribution shall not be made in the form of monetary contributions from the Town's General Fund; rather, the Town may make one-time contributions from Special Revenue funds and/or the annual provision of Operational Service Credits.



OPERATIONAL AGREEMENT

The Town and County agree that the Town will provide the following services under contract that will be finalized prior to the start of Fiscal Year 2014/15, after completion of construction for the replacement animal shelter facility. The services to be provided are similar to those services currently provided under a service agreement between the Town and County.

I. OPERATIONAL SERVICES

A. DEFINITIONS

1. Shelter Services – Town shall maintain and operate the replacement animal shelter facility in accordance with the minimum standards prescribed by the State of California and the governing Health Department. Services provided by Town for the County and Town (for residents or animals within the service area described in Section I.A.8, below) shall include: impounding stray and/or owner released animals; providing proper care and treatment; and quarantining biting animals. Town shall comply with all County and Town ordinances regarding animals and animal impoundment.
2. Licensing Services – Town shall collect, on behalf of County and Town, all dog licenses and impounding fees. Town shall use the most current rates established by County and Town.
3. Euthanasia – The act of causing the painless and easy death of animals. 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.”
4. Impoundment – The taking into custody of any animal: (1) found in violation of State, County and/or Town laws and ordinances; (2) for the protection of animal or human health and/or safety; (3) for any similar circumstances; and the animal is housed in a shelter facility or transported to a veterinarian.
5. Neuter/Spay – The surgical sterilization of any animal resulting in the inability of that animal to produce offspring. Neuter may indicate either male or female, although usually thought of as male, and spay refers to female.
6. Quarantine – The strict confinement, for a specific amount of time, of an animal, either on private property or in a shelter (or similar) setting, 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.

7. Stray – Any animal that has not been in the care and custody of the person delivering and declaring such animal to be a stray for a period in excess of six (6) days.
8. Service Areas - The unincorporated areas of the Morongo Basin region of San Bernardino County and the incorporated area of the Town of Yucca Valley.
9. Quarter or quarterly – The three-month period beginning with the contract effective date.

B. TOWN CONTRACT SERVICE RESPONSIBILITIES

1. Town shall accept for impoundment any and all animals, with the exception of horses, cattle, pigs, and other large livestock, from the Service Areas which are brought to the Shelter by Member officers, Sherriff deputies, constable, authorized individuals, and residents of the Services Areas as defined in Section I.A.8, above, subject to availability of space at shelter.
2. Town shall accept for impoundment any and all stray animals involved in bite cases with the exception of horses, cattle, pigs, and other large livestock which are delivered to the shelter by persons authorized in Section I.A., above, and shall quarantine said animals for the period described by County and Town Codes. Quarantined County animals shall not be released or destroyed without prior written or verbal approval of the County; quarantined Town animals shall not be released or destroyed without prior written or verbal approval of the Town.
3. Town shall require residents of the Services Areas delivering stray animals to sign an impound slip indicating that the animal is a stray, as described in Section I.A.7, above. 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.
4. Town shall provide proper care and treatment to any animal impounded in accordance with all provisions of the California Food and Agricultural Code, the Penal Code, and other applicable statutes and regulations pertaining to the operation of an animal shelter.
5. Town shall accept dead animals with the exception of horses, cattle, pigs, and other large livestock, which are delivered to the shelter by residents of the Service Areas or persons authorized in Section I.A.1., above.
6. Town shall provide medical and/or veterinary services to any animal delivered to the shelter that is injured or sick.
7. Town shall maintain and operate an adequate, suitable and sanitary animal shelter (public pound) in compliance with the standards prescribed by the State and the governing Health Department.

ATTACHMENT C

8. Town shall receive animals from the public a minimum of 5 days a week, be open to the general public during established operating hours agreed upon between the County and the Town, and shall comply with all state law holding period mandates. Town shall issue keys to County personnel (Animal Control Officers and Supervisors) and Town personnel or provide other facility access to allow impoundment of animals after hours.
9. Town shall ensure that animals will be displayed to public to allow owner identification. When animals are wearing identification, known owners will be contacted by telephone and by mail. Owned animal must be held for ten (10) business days. If animals are not redeemed by their owners and adoption holds have not been placed, some may be made available for adoption for an additional time period on a space available basis. Those which are neither redeemed nor adopted may be euthanized after the mandatory hold period, as mandated by provisions in the County Code and the Food and Agricultural Code, has elapsed from the time said animal was apprehended.
10. Town shall euthanize stray animals brought to the shelter by persons authorized in Section I.A.1, above, provided that it is in compliance with State law and no animal so impounded shall be euthanized without notice to the owner of such animal, if that person is known. Animals impounded under the provisions of applicable County and Town Codes shall be euthanized only after the mandatory hold period, as mandated by provisions in the County Code and the Food and Agricultural Code, has elapsed from the time said animal was apprehended, except when immediate euthanasia of the animal is authorized by State law.
11. Town shall provide a method of animal euthanasia acceptable to the State, County and Town. All applicable Federal, State, County and Town guidelines shall be followed and the Town is responsible for employing trained and certified personnel who have been properly trained and certified in performing animal euthanasia.
12. Town shall obtain prior approval from County or Town for euthanasia of any animal held at shelter due to a criminal or civil court case involving said animal.
13. Town shall provide spay or neuter services for adopted animals.
14. Town shall collect apprehension, shelter and related penalty fees, on behalf of and as directed by County and Town, using established fees prescribed by County and Town. Town shall issue receipts for all fees collected and shall keep copies thereof for review and/or audit by County or Town.
15. Town shall sell and issue dog licenses on behalf of the County and Town to residents living in the Service Areas described in Section I.A.8, above using the fees established by County and Town. Town shall issue receipts for all license fees collected and shall keep copies thereof for review and/or audit by County or Town.

16. Town shall attempt to collect the requisite sums for license fees, where applicable, for all dogs returned to owner or adopted if their dog is four months of age or older, using the prescribed established County or Town fees. Town shall issue receipts for all such fees collected and shall keep copies thereof for review by County or Town.
17. In the event that a dog impounded by Town is returned to an owner who is a resident of the Service Areas, or is adopted by a resident of the Service Areas, and no license fee is collected by Town, Town shall report to County within fifteen days of adoption or redemption the description of the animal adopted or redeemed and the name(s) and address of the person(s) adopting or redeeming the dog.
18. Town shall verify dog license status on all impounded dogs for the purpose of ascertaining the number of unlicensed dogs and to foster compliance with County and Town codes.
19. Town shall maintain records of all animals delivered to replacement shelter facility by parties authorized in Section I.A.1, above.
20. Within thirty (30) days following the end of the quarter, Town shall provide to County and Town on a quarterly basis the following information for all animals received by Town from the Service Areas:
 - a. Number of animals (by species) surrendered by owners.
 - b. Number of stray animals (by species) impounded.
 - c. Number of dead animals (by species) delivered to the shelter.
 - d. Number of injured animals (by species) impounded.
 - e. Number of animals held for observation (by species) and the number of days each animal was held.
 - f. Number of sick/injured animals (by species) received at the shelter.
 - g. Number of animals adopted (by species) or redeemed.
 - h. Number of animal intake (by species) at the shelter.
 - i. Number of animals euthanized (by species), if applicable.
 - j. Number of days an animal stayed (by species) in the shelter.
 - k. Number of licenses sold showing the license number that was issued, description of the animal adopted or redeemed, name(s) and addresses(s) of all persons adopting or redeeming, specifying areas of residence whether in the unincorporated area of the County or within the boundaries of a city at the time of the transfer.
 - l. Copy of signed impound slip as described in Section I.B.3., above.
 - m. All information required by Food and Agricultural Code section 32003.
21. Town shall maintain the facility and ensure the replacement shelter facility and equipment is maintained, operational and kept in general good condition.

Recording Requested By:)
 When Recorded Mail To:)
)
 COUNTY OF SAN BERNARDINO)
 387 North Arrowhead Avenue)
 San Bernardino, California 92401)
 Attn: _____)

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Exempt from recording fee, per Government Code Section 6103
 COUNTY OF SAN BERNARDINO
 By: _____

Documentary Transfer Tax is: NONE
Governmental Agency exempt, per Revenue and Taxation Code Section 11922
 (Signature of Declarant or Agent determining tax)

CO-OWNERSHIP AGREEMENT

This CO-OWNERSHIP AGREEMENT, (this "Agreement") is made and entered into as of the _____ day of _____, 2012, by and between the County of San Bernardino, a public body, corporate and politic (the "County") and the Town of Yucca Valley, a California general law municipal corporation (the "Town"). The County and the Town are sometimes referred to herein, individually as a "Co-owner" and collectively, as the "Co-owners."

I. RECITALS

A. The Co-owners desire to acquire, hold, maintain, keep in repair and/or sell or exchange, as Tenants-in-common (co-owners), that certain real property more fully described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. The Co-owners have negotiated the co-ownership of the Property and have concluded that it is in the best interest of each Co-owner that the holding of the Property be governed by an agreement which defines the rights and obligations of each Co-owner in the form of this Agreement.

C. In addition to providing for the co-ownership of the Property, the Co-owners desire to mutually commit to a plan for co-funding the construction of, and providing operational services to, an Animal Care and Control Facility, as such facility is contemplated in that certain "City-County Animal Services Joint Powers Authority Joint Powers Authority Agreement" dated November 18, 2008 (the "JPA Agreement"). The

JPA Agreement was last amended by the County and Town in a "Second Amendment" that was executed by both parties in November 2012 (the "Second Amendment"). Said Animal Care and Control Facility, as referenced in the JPA Agreement and Second Amendment, shall be constructed and operated upon the Property and is hereinafter referred to as the "Facility".

D. It is the intention of this Agreement to memorialize not only the terms of Property co-ownership between the Co-owners, but also to commit to the general understandings of the Co-owners' (i) proposed "workplan" for construction of the Facility, and (ii) joint funding of the Facility's construction, and (iii) agreement for the scope of animal care/control operations at the Facility.

II. AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, which Recitals are incorporated as terms of this Agreement by this referenced, and in consideration of the conditions and covenants hereinafter contained, the Co-owners agree as follows:

A. Co-ownership of the Property

1. *Parties.* The Co-owners hereby agree that their interest in the Property shall be governed by this Agreement. The name, address and respective interest of each Co-owner are set forth on Exhibit "B" attached hereto and incorporated herein by this reference.
2. *Effective Date.* This Agreement shall become effective no later than 12:01 a.m., July 1, 2014, or immediately upon the dissolution of the City-County Animal Services Joint Powers Authority ("Authority") pursuant to the terms of the Second Amendment, whichever occurs first (the "Effective Date").
3. *Title to the Property.*
 - a. Concurrently with the recordation hereof, title to the Property shall be acquired by, and in the name of, the Co-owners as their interest appear in Exhibit "B" attached hereto and by this reference incorporated herein, and shall thereafter be held in the name of the Co-owners as tenants-in-common.
 - b. Concurrently with the execution and delivery of this Agreement, Town shall provide at its sole expense a CLTA title policy for all properties constituting its undivided share of co-ownership of the Property.
 - c. Concurrently with the execution and delivery of this Agreement, Town shall certify in writing to County that no funds whatsoever of the former Yucca Valley Redevelopment Agency were expended to acquire the Property or any portion thereof.

d. Concurrently with the execution and delivery of this Agreement, Town shall deliver a side-letter of Counsel to the Town, dated even date hereof, addressed to the County, to the effect that (i) to Town Counsel's best knowledge and information, after due inquiry, no funds or resources from the former Yucca Valley Community Redevelopment Agency nor the Successor Agency of the Yucca Valley Redevelopment Agency have were utilized in the purchase, maintenance or operation of the Property, and (ii) to Town Counsel's best knowledge and information, after due inquiry, no interests in the property are currently claimed by the State of California or any property tax recipient within the jurisdiction of the former Yucca Valley Redevelopment Agency, and (iii) that the Property was not within the boundaries of the former Redevelopment Project Area of the former Yucca Valley Community Redevelopment Agency. Town Counsel is further willing to memorialize his/her understanding that the Property has not been the subject of any asset, property or title transfer involving either the former Yucca Valley Community Redevelopment Agency or the Successor Agency of the Yucca Valley Redevelopment Agency. Town Counsel is willing to extend reasonable, good faith cooperation with the County and any proposed title insurance company in the effort to obtain clear title to the Property on behalf of Co-owners.

4. *Co-ownership Agreement; Runs with Land.* It is the intent of the Co-owners that this Agreement be recorded and run with the Property. This Agreement shall be recorded by the County no later than three (3) business days of the Effective Date. The covenants set forth herein are limitations on the ownership and use of the Property as provided in California Civil Code § 784. The Covenants are made for the direct benefit of the Property and shall run with the land and be binding upon the Co-owners, as provided in California Civil Code §§ 1460 through 1468. The covenants set forth herein benefit, and may be enforced by either Co-owner, and/or their respective successors or assigns. Neither Co-owner shall challenge the restrictions on Property use as set forth in this Agreement or any right of the Co-owner's hereunder. Co-owner expressly acknowledge and agree that the covenants of this Agreement are reasonable restraints on their respective rights to own, use, maintain, and transfer the Property and any estate or interest therein and are not and shall not be construed to be an unreasonable restraint on alienation.

5. *Use as Facility, Facility Construction, Joint Funding and Facility Operations.* Town shall use and occupy the Property only for the operation and maintenance of an animal shelter (i.e., the Facility), and for no other purpose. Town shall not use or permit the use of the Property in a manner that is unlawful or immoral, creates waste or a nuisance, or causes damage to the Property or neighboring properties. In order to implement the agreed-upon use of the Property for the Facility, the Co-owners hereby adopt conceptual plans for the financing, planning, design, construction, operation and maintenance of the Facility. This Agreement adopts the terms of the following Exhibits, which are intended to provide a framework for construction, funding and future operations of the Facility:

- i. Exhibit C, Proposed Workplan, is the proposed workplan to construct the new Facility. The Workplan also sets forth the

- general definitions of terms that are critical to understanding the overall structure of the Facility construction and acquisition funding plan;
- ii. Exhibit D, Joint Funding Agreement, sets forth the main obligations and procedures for the construction and funding plan in which the Members agree to jointly fund the Facility with the Town making "Town Contributions" to fund fifty percent (50%) of this capital improvement project over a twenty (20) year period; and
 - iii. Exhibit E, Operational Agreement, represents an operational plan for animal care/control services after construction of the Facility is completed.

Each of the Exhibits C through E are incorporated herein by this reference and adopted with this Agreement. Certain non-material amendments to the detailed budgetary or scheduling information represented in the Tables at Exhibit "D" may be subject to change as Facility construction of, and Town Contributions to, the Facility progress, subject to Co-owner approval. Non-material changes to the budgets or schedules shown in the Exhibits may be approved by the principle representatives (or contract administrators of this Agreement for each respective Co-owner) without approval of the Co-owners' legislative bodies.

6. *Insurance.*

a. **Basic Insurance Requirements.** Without in any way affecting the Co-owners' obligation to mutually defend and indemnify one another as herein provided, and in addition thereto, Town shall secure and maintain the following types of insurance, with the following minimum limits throughout the Term of this Agreement:

(1) **Real Property Insurance.** Coverage for all buildings and improvements at the Property against loss or damage by fire, lightning, vandalism, malicious mischief or earthquake, in an amount equal to the full replacement value of such buildings and improvements. County and Town shall be joint loss payees under such policy. All proceeds from any loss covered by said policy shall first be used to repair and restore the buildings and improvements at the Property.

(2) **Comprehensive General and Automobile Liability Insurance.** This policy to include contractual and automobile liability coverage for owned, hired and non-owned vehicles with combined single limits for bodily injury and property damage of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence, with a two million dollars (\$2,000,000) general aggregate limit.

(3) **Workers' Compensation Insurance.** Workers' compensation insurance or a state-approved self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability Insurance with a limit of Two Hundred Fifty Thousand and 00/100

Dollars (\$250,000.00), covering all persons providing services on behalf of the Town and all risks to such persons at the Property.

(4) Contents of Insurance.

i. Fire insurance and extended peril coverage insurance with limits adequate to cover full cash value of Town's personal property and improvements located on the Property AND

ii. Fire Legal Liability Insurance adequate to cover the full replacement cost value of the structures and property.

b. Required Policy Provisions. Each of the insurance policies which Town is required to procure and maintain as part of this Agreement shall include the following provisions:

(1) Additional Named Insured: All policies, except for the Workers' Compensation Insurance, shall contain additional insured endorsements naming the County and its officers, employees, agents and volunteers, as additional named insured with respect to claims arising out of Town's use and the occupancy of the Property. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent of the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO CG 2010.11 85.

(2) Waiver of Subrogation Rights: Town shall require the insurance carriers on each of the foregoing policies to waive all rights of subrogation against County, its officers, employees, agents, volunteers, contractors and subcontractors. All general and automobile liability insurance coverage provided shall not prohibit Town and/or Town's employees or agents from waiving the right of subrogation prior to a loss or claim. Town hereby waives all subrogation rights against the County.

(3) Policies Primary and Non-Contributory: All required policies are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

(4) Severability of Interests: Town agrees to ensure that coverage provided to meet the insurance requirements herein is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Town and County or between the County and any other insured or additional insured under the policy.

(5) Deductibles and Self-Insured Retention: Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved, in its sole discretion, by the County's Department of Risk Management.

c. Insurance Policies and Proof of Coverage. All insurance required pursuant to this Agreement shall be with carriers duly licensed to transact business in the State of California and maintaining during the applicable policy term a "General Policyholder's Rating" of at least A, VII, in the most current issue of "Best's Insurance Guide." Town shall furnish certificates of insurance to the County, evidencing all of the required insurance coverage, including endorsements, prior to the Commencement Date, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the County. Town shall maintain all of the required insurance from the execution date of this Agreement until the completion of Town's occupancy of the Property. Town shall furnish certified copies all insurance policies and all endorsements within thirty (30) days of its execution of this Agreement.

d. Right to Review and Alter Insurance Requirements. The foregoing insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. If the Department of Risk Management determines that any additional or different insurance is required to adequately protect the interests of County, or, that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, Director of Risk Management or designee is authorized to change the foregoing insurance requirements, require additional types of insurance coverage or require higher coverage limits. Any change in insurance requirements must be reasonable in light of Town's use of the Property, past claims against the Town, inflation, or any other item reasonably related to the County's risk. Any reduction or waiver of the required insurance, as well as any change requiring additional or different types of insurance coverage or higher coverage limits, must be memorialized by a written amendment to this Agreement. Town agrees to execute any such amendment within thirty (30) days of receipt.

e. Adequacy of Insurance Coverage. County makes no representation that the limits of liability specified in this Paragraph 5 are adequate to protect Town's interests. In the event Town believes that such insurance coverage is insufficient, Town shall provide, at Town's sole cost and expense, such additional insurance as Town deems adequate. In no event shall the limits of any coverage maintained by Town pursuant to this Agreement limit Town's liability under this Agreement.

f. Failure to Procure or Maintain Insurance. All insurance required as part of this Agreement must be maintained in force at all times by Town. Failure to maintain said insurance, due to expiration, cancellation, or for any other reason shall be cause for County to, in County's sole discretion and without any obligation to do so, procure or renew such insurance and pay any and all premiums in connection therewith. All monies paid by County on account of insurance coverage which Town is obligated to procure and maintain pursuant to this Agreement, shall be paid by Town to County within ten (10) days of Town's receipt of County's written demand. If paid at a later date, such sums shall bear interest at the maximum rate the County is permitted by law

to charge from the date the sum was paid by County until County is reimbursed by Town. The remedies set forth in this paragraph are in addition to and do not in any manner limit other remedies set forth in particular paragraphs of this Agreement.

7. *General Indemnity.*

Pursuant to Government Code Section 895.4, the parties have agreed to mutually indemnify each other as provided for in this section. Each party to this Agreement shall be solely liable for, and shall indemnify, defend and hold harmless the other parties and each of their officers, officials, employees, agents and volunteers ("Indemnitees") from, any and all loss, liability, errors, obligations, fines, penalties, forfeitures, costs and damages to persons or property (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by any of the Indemnitees, the indemnifying party or any other person, and from any and all claims, suits, demands and actions in law or equity (including attorney's fees and litigation expenses), arising directly or indirectly from:

- (i) The active negligence or intentional acts or omissions of the indemnifying party or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement; or
- (ii) The ownership, maintenance, operation or use of the Property that is the subject hereof, any construction, maintenance or operation of such Property by either party, or any related equipment when in the care, custody and control of the indemnifying party.

8. *Maintenance of Property.*

a. *Town's Obligation.* Town shall keep the Property and every part thereof in good order, condition and repair (whether or not such portion of the Property requiring repair, or the means of repairing the same, are reasonably or readily accessible to Town, and whether or not the need for such repairs occurs as a result of Town's use, any prior use, the elements or the age of the Property). Without limiting the generality of the foregoing, Town shall maintain all equipment or facilities specifically serving the Property, such as plumbing, heating, air conditioning, ventilating, electrical, lighting facilities, boilers, fired or unfired pressure vessels, fire sprinkler systems, and fire hose connections. Town's obligations shall include restorations, replacements or renewals when necessary to keep the Property and all improvements thereon in good order, condition and state of repair. Town, in keeping the Property in good order, condition and repair, shall exercise and perform good maintenance practices.

b. *Utilities.* Town understands and agrees that provision of all utilities, including but not limited to, electrical, water, gas, telephone, refuse collection, sewage disposal, etc., shall be the responsibility of the Town. Town shall assume all costs involved with said connections, all costs for services thereafter and maintenance within the Property.

c. Cost Sharing. The costs to maintain the Property and provide utilities shall be contained within an annually-adopted Operational Agreement between the Town and County.

9. *Restrictions on Alienation.* Neither Co-owner shall transfer, partition, and/or encumber its interest in the Property without the prior written consent of the other Co-owner. In addition, the Co-owners agree as follows:

a. Buy-Out Rights. In the event of a bankruptcy, default or any other event that would cause an interest of a Co-owner to be either voluntarily or involuntarily alienated to a third-party that is not one of the Co-owners signing this Agreement, then such an event shall constitute an offer (or option to the remaining Co-owner) to sell such Co-owner's interest on terms and condition of this Agreement to the remaining Co-owner. Either Co-owner may at any time sell or otherwise transfer its ownership interest in the Property to the other upon the prior written consent of the recipient Co-owner.

b. Terms of a Buy-Out. Any right to buy-out or compel sale of the Property shall be exercised as set forth below.

(1) Manner of Exercising Option. The Option may be exercised by the remaining Co-owner by delivering to the withdrawing or defaulting Co-owner, within sixty (60) days from notice of the event giving rise to the option, written notice of the exercise which shall state that the option is exercised without condition or qualification.

(2) Option Price. The Option Price shall be determined via the means described in Section 9.c below, "Purchase of a Co-owner's Interest".

c. Purchase of a Co-owner's Interest. The purchase price for a buy-out shall be determined in accordance with the formula set forth below.

(1). Fair Market Value. The Fair Market Value of the subject Property shall be set by the Co-owners or their authorized representatives (sometimes hereinafter referred to as "party" or "parties"). If these parties cannot agree within 30 days after the date of notice of buy-out is given, then the Fair Market Value shall be determined by appraisal in accordance with the appraisal procedure set forth below. No discount shall be made because the subject interest is a fractional interest.

(2). Appraisal Procedure. The Fair Market Value shall be determined by an appraisal of the Property. Each party shall have the right to appoint an appraiser. Any and all appraisers must be qualified independent appraisers with at least 5 years experience in the valuation of real property in San Bernardino County, State of California. Each party agrees to obtain a qualified independent appraisal within sixty (60) days of the date notice of exercise of the option is given. The parties agree to exchange the appraisal reports as soon as they are received. If the appraisal reports are within 10% of one another, then the Fair Market Value shall be the average of the

two appraisals. If the value set forth in the appraisals is more than 10% of one another and if the parties cannot agree to the valuation of the Property, then the appraisers employed by the parties shall select a neutral third party appraiser whose decision shall be binding.

Such evaluation shall be binding on both parties. Each party shall pay for its own appraiser and shall pay one-half of the neutral appraiser fee. During the pendency of the appraisal, the provision of this Agreement and the obligations of the parties remain in full force and effect.

(3). Purchase Price of Interest. The purchase price of the interest shall be established in accordance with the appraisal procedures set forth herein. The withdrawing Co-owner's interest shall be the withdrawing Co-owner's percentage interest (set forth in paragraph 2) less that party's pro rata interest in all outstanding property liens and outstanding property expenses. If the withdrawing Co-owner is in default due to failure to pay the party's share of property expenses, then the payment to a withdrawing Co-owner shall be offset by any amounts so owed.

(4). Status of Withdrawing Party. Until the purchase price is determined, a withdrawing party remains a party subject to all provisions of this Agreement. Once the purchase price is determined and the purchase price paid, then the withdrawing party shall no longer be a party to this Agreement.

d. Payment of Purchase Price. If the withdrawing party's interest is sold to a third party or to a Co-owner, then the purchase price shall be paid as the parties agree. If the withdrawing party's interest is involuntarily alienated, then the purchase price for the withdrawing party's interest shall be paid in cash within ninety days (Interim Period) of the determination of the buy-out price. During the Interim Period, the purchase price shall be secured by the withdrawing party's interest with interest accruing on the payment at the interest rate in effect as posted in the Money Rates column of the Wall Street Journal on the date the buy-out price is determined.

10. *Enforcement and Defaults.* Either party's failure or unreasonable delay to perform any term or provision of this Agreement constitutes a default. In the event of a default, the injured party shall give written "Notice of Default" to the defaulting party, specifying the default. Delay in giving such notice shall not constitute a waiver of the default. If the defaulting party fails to cure the default within thirty (30) days after receipt of a Notice of Default, or, if the default is of a nature that cannot be cured within thirty (30) days, the defaulting party fails to commence to cure the default within said thirty (30) days and thereafter diligently prosecute such cure to completion, then the defaulting party shall be liable to the injured party for any and all damages caused by such default, unless otherwise provided for by this Agreement.

The rights and remedies of the parties are cumulative, and the exercise by a party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or

different time, of any other rights or remedies for the same default or any other default by another party.

11. *Sharing Proceeds and Liabilities upon Sale of Property.* If the Co-owners elect by mutual written agreement to sell the Property, any debt or other secured lien must be first satisfied and the remaining sales proceeds (or losses) shall be distributed to the Co-owners in their proportionate share.

12. *Provisions Are Covenants And Conditions.* All provisions, whether covenants or conditions, on the part of either party, shall be deemed to be both covenants and conditions.

13. *Consent.* Whenever consent or approval of either party is required, that party shall not unreasonably withhold such consent or approval.

14. *Exhibits.* All exhibits referred to in this Agreement or attached to this Agreement are incorporated herein by reference.

15. *Law.* This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

16. *Attorneys' Fees and Costs.*

If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under Paragraph 7.

17. *Venue.* The parties acknowledge and agree that this Agreement was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Agreement will be the Central District of San Bernardino County. Each party hereby waives any law or rule of court which would allow it to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third party, the parties hereto agree to use their best efforts to obtain a change of venue to the San Bernardino District of San Bernardino County.

18. *Compliance With Law.* Town and its officers, employees, agents and assigns shall be bound by and comply with all applicable federal, state and local laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations, rights and performance under the terms of this Agreement.

19. *Captions and Cover Page.* The paragraph captions and the cover page of this Agreement shall have no effect on its interpretation.

20. *Notices.* All notices required to be delivered under this Agreement to the other party must be in writing and shall be effective (i) when personally delivered

by the other party or messenger or courier thereof; (ii) three (3) business days after deposit in the United States mail, registered or certified; (iii) twenty-four (24) hours after deposit before the daily deadline time with a reputable overnight courier or service; or (iv) upon receipt of a telecopy, electronic or fax transmission, provided a hard copy of such transmission shall be thereafter placed in the mail within twenty-four (24) hours, ordinary postage prepaid, addressed to the other party; in each case postage fully prepaid and addressed to the respective parties as set forth below or to such other address and to such other persons as the parties may hereafter designate by written notice to the other parties hereto:

To Town: Town of Yucca Valley
57090 29 Palms Hwy
Yucca Valley, California 92284
Attention: Town Manager

Copy to: Law Firm of Aleshire and Wynder, LLP
18881 Von Karman Avenue, Suite 400
Irvine, CA 92612
Attention: Lona N. Laymon

To County: Real Estate Services Department
385 North Arrowhead Avenue
San Bernardino, CA. 92415-0180
Attention:

21. *Severance.* If any provision of this Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement and all such other provisions shall remain in full force and effect. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

22. *Survival.* The obligations of the parties, which by their nature continue beyond the term of this Agreement, will survive the termination of this Agreement.

23. *Interpretations.* As this Agreement was jointly prepared by both parties, the language in all parts of this Agreement shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

24. *Entire Agreement.* This Agreement, including Recitals, constitutes a single, integrated contract, expressing the entire agreement and understanding of the parties concerning the subject matter of this Agreement, and this Agreement supersedes and replaces all prior understandings, negotiations, proposed agreements and agreements, whether oral or written, express or implied.

25. *Amendment.* No waiver, modification or amendment of any term condition or provision of this Agreement shall be valid or shall have any force or effect unless made in writing and signed by all of the parties hereto. This provision shall not apply to amendment of such Lease pursuant to Paragraph 5 or 7.

26. *No Reliance.* In entering into this Agreement, each of the parties acknowledges, represents and warrants that it has not relied upon any promise, statement or representation, express or implied, of any other party or such other party's agents, employees, or attorneys, not contained in this Agreement.

27. *Former County Officials.* Town agrees to provide or has already provided information on former County administrative officials (as defined below) who are employed by or represent Town. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Town. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. (See Exhibit "F", List of Former County Officials.)

28. *Binding Effect.* This Agreement shall inure to the benefit of and be binding upon the Co-owners and their respective heirs, successors, legal representatives and assigns.

29. *Counterparts.* This Agreement may be executed in counterparts and transmitted via facsimile, with each facsimile copy being deemed to be an original, but such counterparts, when taken together, shall constitute but one agreement.

30. *Non-Discrimination.* Both parties hereto covenant by and for themselves or their heirs, successors, administrators and assigns, and all persons claiming under or through them, and this Agreement is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, gender preference, national origin, sexual orientation or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Property herein leased nor shall the parties, or any person claiming under or through them, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of the Property.

31. *Force Majeure.* Each party shall give the other party prompt written notice of any Uncontrollable Circumstances materially impacting or delaying the party's ability to fully perform the terms of this Agreement. "Uncontrollable Circumstance" means any act, event or condition that has delayed or prevented, or which the

parties hereto agree may be reasonably expected to delay or prevent, a party from performing or complying with one of their obligations under this Agreement, including, without limitation, such acts, events or conditions as:

a. A change in law, including (i) the adoption, promulgation, amendment, modification, rescission, revision or revocation of any applicable law or change in judicial or administrative interpretation thereof occurring after the date hereof, and/or

b. Any order or judgment of any federal, State or local court, administrative agency or governmental body issued after the date hereof, so long as such order or judgment is not the result of a party's negligent or willful misconduct or criminal violation; or

c. Governmental action, inaction, restriction, initiative, referendum, moratoria, or processing with governmental agencies; or

d. Earthquake, explosions, epidemic, quarantine, landslide, lightning, fire, flood and weather, including, without limitation, consecutive or numerous non-consecutive days of rain, snow or other inclement weather or other Acts of God; or

e. Sabotage, acts of public enemy, war, riot, insurrection or civil disturbance, expropriation, confiscation; or

f. Failure of any permitted subcontractor or supplier of goods, materials, services or other items required for performance of this Agreement (other than an affiliate of the responsible party) to furnish such goods, services, materials or other items on the dates agreed to, which materially and adversely affects the Party's ability to perform its obligations and such Party is not able to reasonably obtain substitute goods, services, materials or items on the agreed upon dates; or

g. The condemnation, taking, seizure, involuntary conversion or requisition of title to or use of the Property or any material portion or part thereof by the action of any federal, State, county, city or local governmental agency or authority (other than one of the Co-owners);

In no event shall any act, event or condition that has occurred as a result of poor management practices or negligence of a Party, or an employee or agent thereof, be an Uncontrollable Circumstance.

32. *Authority to Execute.* The person(s) executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said Party is bound.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first hereinabove written.

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

Josie Gonzales, Chair
Board of Supervisors

Dawn Rowe, Mayor
Town of Yucca Valley

Dated: _____

Dated: _____

SIGNED AND CERTIFIED THAT A
COPY OF THIS DOCUMENT HAS
BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

SIGNED AND CERTIFIED THAT A
COPY OF THIS DOCUMENT HAS
BEEN DELIVERED TO THE
MAYOR OF THE TOWN

Laura Welch, Clerk of the Board
of Supervisors

Janet M. Anderson, Town Clerk

By: _____
Deputy

By: _____
Deputy

Date: _____

Date: _____

Approved as to Legal Form:

Approved as to Legal Form:

JEAN-RENE BASLE
County Counsel Town Counsel

LONA N. LAYMON

By: _____
Rex A. Hinesley, Deputy

By: _____

Date: _____

Date: _____

EXHIBIT A
DESCRIPTION OF PROPERTY

REAL PROPERTY LEGAL DESCRIPTION

Real property located in the Town of Yucca Valley, County of San Bernardino, State of California, described as follows:

A portion of Government Lot 88 Section 14, Township 1 North, Range 5 East described as commencing at a point in the westerly line of said Lot 88 lying 264 feet northerly from the southwest corner thereof then southerly along said westerly line 264 feet to the said southwest corner thence easterly along the southerly line of said Lot 88 a distance of 333.47 feet more or less to the southeast corner of said Lot, thence northerly along the easterly line of said Lot 88 a distance of 113 feet, thence northwesterly to the point of beginning. Excluding the west 20 feet thereof, also excluding mineral rights. Reservation of record 1.33 acres more or less.

APN 0597-031 ___-23 ___:

Real Property Locate in the Town of Yucca Valley, County of San Bernardino, State of California, described as follows:

Lot 104 of Section 14, Township 1 North, Range 5 East, excluding mineral rights. Reservation of record 5 acres.

APN 0597-021-08

PERSONAL PROPERTY DESCRIPTION

**EXHIBIT B
NAME OF CO-OWNER; ADDRESS OF CO-OWNER;
AND PERCENTAGE INTEREST OF CO-OWNER**

<u>NAME AND ADDRESS OF CO-OWNER</u>	<u>% INTEREST IN PROPERTY</u>
Town of Yucca Valley 57090 Twentynine Palms Highway Yucca Valley, CA. 92284-2932	21% (upon Contributions credits as detailed on Exhibit "D", table F-1 upon commencement of this Agreement, effective July 1, 2014*)
County of San Bernardino Real Estate Services Department 385 North Arrowhead Avenue San Bernardino, CA. 92415-0180	79% (upon commencement of this Agreement, effective July 1, 2014**)

*Table F-1 provides an Operational Services Credit Schedule in which the Town provides a series of services to the County as defined in Attachment C (Operational Agreement). A portion of the Operational Services are accrued and credited to the County annually during the first twenty years of the term to facilitate the Town's acquisition of additional ownership percentage in the co-owned facility, to a maximum of 50% ownership.

**County's percentage of ownership will decrease incrementally as Town's percentage of ownership increases to a final desired shared interest of 50% ownership for each entity.

EXHIBIT C

PROPOSED WORKPLAN



EXHIBIT D

JOINT FUNDING AGREEMENT



EXHIBIT E

OPERATIONAL AGREEMENT FOR FACILITY SERVICES



EXHIBIT F

LIST OF FORMER COUNTY OFFICIALS

INSTRUCTIONS: List the full name of the former COUNTY Administrative Official, the title/description of the Official's last position with the LESSEE, the date the Official terminated LESSEE employment, the Official's current employment and/or representative capacity with the LESSEE, the date the Official entered LESSEE's employment and/or representation.

OFFICIAL'S NAME:

REQUIRED INFORMATION



Contract No. 08-1152 (5th Amendment)



County of San Bernardino

F A S

STANDARD CONTRACT

<input type="checkbox"/> New	Vendor Code	SC	Dept.	A	Contract Number	08-1152 A-5		
<input checked="" type="checkbox"/> Change	TOWNOFY145		PHL					
<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		\$ 2,031,017			
Contract Type								
<input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input checked="" type="checkbox"/> Unencumbered <input type="checkbox"/> Other:								
If not encumbered or revenue contract type, provide reason: Costs based on volume of services								
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount			
96206		07/01/08	06/30/14	\$274,257	\$ 498,000			
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No	Amount		
AAA	PHL	2600	200	2165		\$ 498,000		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount		
						\$		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount		
						\$		
Project Name			Estimated Payment Total by Fiscal Year					
Animal Shelter Services			FY	Amount	I/D	FY	Amount	I/D
			13-14	\$498,000	1			

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

Town of Yucca Valley

hereinafter called Town

Address
7090 Twentynine Palms Highway

Yucca Valley, CA 92284

Telephone
(760) 369 - 7207

Federal ID No. or Social Security No.

T IS HEREBY AGREED AS FOLLOWS:

AMENDMENT NO. 5

is hereby agreed to amend Contract No. 08-1152 between the County and Town as follows:

SECTION V. FISCAL PROVISIONS

Paragraph B is amended to read as follows:

The maximum amount of payment made under this Contract shall not exceed \$2,031,017 and shall be subject to the availability of funds to the County. The consideration to be paid to Town, as provided herein, shall be full payment for all Town's services and expenses incurred in the performance hereof, including travel and per diem. County shall not be responsible for any costs incurred by Town, associated with Town's provision of animal shelter services to County, which exceed the maximum amounts identified in

Auditor/Controller-Recorder Use Only

Contract Database FAS

Input Date Keyed By

this paragraph. The maximum amount is a total dollar amount; it includes the original contract amount and all subsequent amendments, and is broken down as follows:

Original Contract	\$274,257	July 1, 2008 through June 30, 2009
Amendment No. 1	\$298,461	July 1, 2009 through June 30, 2010
Amendment No. 2	\$307,498	July 1, 2010 through June 30, 2011
Amendment No. 3	\$315,044	July 1, 2011 through June 30, 2012
Amendment No. 4	\$337,757	July 1, 2012 through June 30, 2013
Amendment No. 5	\$498,000	July 1, 2013 through June 30, 2014

SECTION VIII. TERM

Section VIII is amended to read as follows:

This Contract is effective as of July 1, 2008, and will expire June 30, 2014, but may be terminated earlier in accordance with provisions of Section IX of this Contract.

ATTACHMENT C

Attachment C – Town of Yucca Valley FY 2012-13 Estimated Budget will be replaced with FY 2013-14 Estimated Budget.

All other terms and conditions remain in full force and effect.

COUNTY OF SAN BERNARDINO

Town of Yucca Valley

(Print or type name of corporation, company, contractor, etc.)

► _____
Josie Gonzales, Chair, Board of Supervisors

By ► _____
(Authorized signature - sign in blue ink)

Dated _____

Name _____
(Print or type name of person signing contract)

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Title Mayor
(Print or Type)

Laura H. Welch
Clerk of the Board of Supervisors
of the County of San Bernardino.

Dated _____

By _____
Deputy

Address 57090 Twentynine Palms Highway
Yucca Valley, CA 92284

Approved as to Legal Form
► _____
Steven J. Singley, Deputy County Counsel
Date _____

Reviewed by Contract Compliance
► _____
Lory Klopfer, HS Contracts Unit
Date _____

Presented to BOS for Signature
► _____
Trudy Raymundo, Director
Date _____

FY 2013-14 ESTIMATED BUDGET DRAFT

Cost Item	Total Shelter Expenses	Percent Charged to Contract	County Tentative Share TBD
A. Salaries and Benefits			
1. Position Title - Animal Care & Control Manager			
FTE - 0.75			
Salary & Benefits	\$90,700	50%	\$45,350
2. Position Title - Administrative Assistant II			
FTE - 0.5			
Salary & Benefits	\$37,625	50%	\$18,813
3. Position Title - Animal Shelter Specialist			
FTE - 1.0			
Salary & Benefits	\$66,000	50%	\$33,000
4. Position Title - Animal Shelter Specialist			
FTE - 1.0			
Salary & Benefits	\$66,000	50%	\$33,000
5. Position Title - Kennel Tech II			
FTE - 1.0			
Salary & Benefits	\$58,300	50%	\$29,150
6. Position Title - Kennel Tech (part-time)			
FTE - .5			
Salary - no benefits	\$14,000	50%	\$7,000
7. Position Title - Kennel Tech (part-time)			
FTE - .5			
Salary - no benefits	\$14,000	50%	\$7,000
8. Position Title - Animal Control Officer II			
FTE - .5			
Salary & Benefits	\$41,900	50%	\$20,950
9. Position Title - Animal Control Officer II			
FTE - .25			
Salary & Benefits	\$20,900	50%	\$10,450
10. Position Title - Facilities Maintenance Supervisor			
FTE - .05			
Salary & Benefits	\$4,650	50%	\$2,325
11. Overtime - Shelter Staff			
Salary	\$5,000	50%	\$2,500
Subtotal A	\$419,075		\$209,538

Cost Item	Total Shelter Expenses	Percent Charged to Contract	County Tentative Share TBD
B. Services and Supplies			
1. Office Supplies	\$1,800	50%	\$900
2. Operating Supplies	\$4,750	50%	\$2,375
3. Promotional Supplies	\$1,000		
4. Animal Food/Bedding	\$18,000	50%	\$9,000
5. Veterinary Supplies	\$22,450	50%	\$11,225
6. Clothing	\$2,600	50%	\$1,300
7. Custodial Supplies	\$4,000	50%	\$2,000
8. Reference Materials	\$500	50%	\$250
9. Tools & Equipment	\$2,000	50%	\$1,000
10. Professional Services	\$70,000	50%	\$35,000
11. Contract Legal Svcs	\$1,500	50%	\$750
12. Utilities	\$30,300	50%	\$15,150
13. Computer Maint.	\$5,000	50%	\$2,500
14. Maintenance - Equipment	\$1,000	50%	\$500
15. Printing	\$3,500	50%	\$1,750
16. Conferences/Travel	\$0	50%	\$0
17. Dues/Memberships	\$500	50%	\$250
18. Basic Phone	\$2,000	50%	\$1,000
19. Data Connection	\$6,000	50%	\$3,000
20. Vehicle Replacement	\$7,000	50%	\$3,500
Subtotal B	\$183,900	---	\$91,450
Subtotal A	\$419,075	---	\$209,538
Subtotal B	\$183,900	---	\$91,450
Administrative Overhead	\$60,298	50%	\$30,149
Program Cost Sub-Total	\$663,273	---	\$331,136
Unanticipated Costs (10%)	\$66,327	---	\$33,114
Subtotal Annual Operating Budget	\$729,600		\$364,250
Initial Capital Start-up Costs			
Chameleon Software	\$30,000	50%	\$15,000
IT Network Set-up	\$35,000	50%	\$17,500
Telephone System	\$30,000	50%	\$15,000
Capital/Facility Furnishing	\$172,500	50%	\$86,250
Subtotal Initial Start-up Costs	\$267,500		\$133,750
Total	\$997,100	---	\$498,000