

NOTICE AND CALL OF
SPECIAL MEETING

NOTICE IS HEREBY GIVEN as provided by Government Code of the State of California Section 54956 that Mayor Dawn Rowe called a Special Meeting of the Town Council of the Yucca Valley, for Tuesday, December 4, 2012 at 5:45 p.m. at the Yucca Valley Community Center, Yucca Room, 57090 Twentynine Palms Highway, Yucca Valley, California, for the below stated purpose.

AGENDA

(Action may be taken on any of the items listed below)

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

DEPARTMENT REPORTS

1. Replacement Animal Shelter, ACJPA Project No. 1, JPA Amendment #2, Co-Ownership Agreement

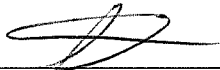
Staff Report

Recommendation:

1. Approve the County recommendation to revise the Second Amendment to the ACJPA agreement that increases Total Project Cost called out in the ACJPA Agreement from \$3.5 to \$3.99 million; and
2. Approve the revised 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
3. Approve the revised 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.

Action: Move _____ 2nd _____ Vote _____.

ADJOURNMENT



Janet M. Anderson, Town Clerk
Town of Yucca Valley

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Mark Nuaimi, Town Manager
Date: December 3, 2012
For Council Meeting: December 4, 2012
Subject: Replacement Animal Shelter
ACJPA Project No. 1
JPA Amendment #2, Co-Ownership Agreement

Prior Council Review: The Council approved Amendment #2 to the Animal Control Joint Powers Agreement on November 6, 2012. The Council also approved award of the construction contract, establishment of a contingency, and revised the total project cost from \$3.5 million to \$3.75 million.

Recommendation: That the Town Council:

1. Approves the County recommendation to revise the Second Amendment to the ACJPA Agreement that increases Total Project Cost called out in the ACJPA Agreement from \$3.5 to \$3.99 million; and
2. Approves the revised 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,
3. Approves the revised 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.

Reviewed By:   _____
Town Manager Town Attorney Mgmt Services Dept Head

<input type="checkbox"/> Department Report	<input type="checkbox"/> Ordinance Action	<input 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

Executive Summary: At the November 6, 2012 Town Council meeting, the Town Council approved Amendment #2 to the JPA Agreement between the Town and the County of San Bernardino. This second amendment included several actions:

1. Increased Total Project Cost called out in the ACJPA Agreement from \$3.5 to \$3.75 million;
2. Defined:
 - a. Attachment A - Proposed Work Plan includes the activity required to construct the Replacement Animal Shelter
 - b. Attachment B - Joint Funded Animal Shelter Project, 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 and budget after construction of the Animal Care and Control Facility is completed.
 - d. Attachment D - Joint Ownership Agreement, sets forth the Members agreement reflecting ownership interests in the new Animal Care and Control Facility upon any termination of this Agreement

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: Town and County staff have agreed that the total project costs for the Replacement Animal Shelter should include prior investments made by the Town and audit & insurance costs for the ACJPA. These costs include:

- Current Shelter Facility -- \$60,000
- Replacement Shelter Land -- \$60,000
- Malin Way Road Improvements -- \$120,000
- Audit / Insurance Costs -- \$51,504

During the November 6, 2012 Town Council meeting, staff requested that the Town Council increase the Total Project from \$3.5 million to \$3.75 million. Including the value of these Town investments and ACJPA Administrative costs, the total project cost needs to be increased from \$3.5 million to \$3.99 million. While this accounting decision has increased the total project costs, the Town's credit towards the project has also increased from \$795,730 to \$915,730.

Description	Project cost	Paid by Joint Powers Authority Trust Account	Paid directly by Town of Yucca Valley	Additional Contributions by Town of Yucca Valley
Design Architect Contract	299,276	299,276		
Construction Contract	2,881,200	2,881,200		
Project Management Costs	37,192		37,192	
Biological Assessment - Tortoise	11,500		11,500	
Fire Department Plan Check	3,157		3,157	
Town Plan Check/Inspection Services	10,594		10,594	
Electrical Services Extension	6,975		6,975	
Soils Testing	0		0	
Specialized Inspections	40,000		40,000	
Water Service Extension	40,000		40,000	
Construction Management	28,812		28,812	
Land Purchase	60,000			60,000
Current Shelter Value	60,000			60,000
Road Improvements to Facility	120,000		120,000	
Joint Powers Authority Expenditures (includes audit and insurance costs)	51,504	51,504		
Project Contingency	339,790	339,790		
Total	3,990,000	3,571,770	298,230	120,000
Town Deposit into Trust			437,500	
Town Deposit into Trust			60,000	
Subtotal Town Credits to Project			795,730	120,000
TOTAL PROJECT COST	3,990,000			
Additional Contribution By Town	(120,000)			
Paid Directly by Town	(298,230)			
Town Deposited Into JPA	(437,500)			
Town Future Deposit to JPA	(60,000)			
Total Town Credits to Project	915,730			
Funds Deposited By County In JPA	3,074,270			

Fiscal impact: 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.

Town Council actions from November 6, 2012 already authorized the expenditure of 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. No additional funds are required.

Although the total project costs are increased, the annual Operational Services Credit (\$53,963.50) has not changed and 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 %		
		\$ 915,730.00	23%	Total Costs	\$ 3,990,000
2014-15	\$ 53,963.50	\$ 969,693.50	24%		
2015-16	\$ 53,963.50	\$ 1,023,657.00	26%	Contingency	\$ 339,790
2016-17	\$ 53,963.50	\$ 1,077,620.50	27%		
2017-18	\$ 53,963.50	\$ 1,131,584.00	28%		
2018-19	\$ 53,963.50	\$ 1,185,547.50	30%		
2019-20	\$ 53,963.50	\$ 1,239,511.00	31%	Town Share	\$ 1,995,000 50%
2020-21	\$ 53,963.50	\$ 1,293,474.50	32%	Town Contributions	\$ (915,730)
2021-22	\$ 53,963.50	\$ 1,347,438.00	34%		
2022-23	\$ 53,963.50	\$ 1,401,401.50	35%	Town Balance	\$ 1,079,270
2023-24	\$ 53,963.50	\$ 1,455,365.00	36%		
2024-25	\$ 53,963.50	\$ 1,509,328.50	38%		
2025-26	\$ 53,963.50	\$ 1,563,292.00	39%		
2026-27	\$ 53,963.50	\$ 1,617,255.50	41%		
2027-28	\$ 53,963.50	\$ 1,671,219.00	42%		
2028-29	\$ 53,963.50	\$ 1,725,182.50	43%		
2029-30	\$ 53,963.50	\$ 1,779,146.00	45%		
2030-31	\$ 53,963.50	\$ 1,833,109.50	46%		
2031-32	\$ 53,963.50	\$ 1,887,073.00	47%		
2032-33	\$ 53,963.50	\$ 1,941,036.50	49%		
2033-34	\$ 53,963.50	\$ 1,995,000.00	50%		

Alternatives: None

Attachments:

Revised 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

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 or 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 (changes which do not exceed ten percent [10%] to any line item) to the budgets or schedules shown in the Exhibits may be approved by the principle representatives for each respective Co-owner (the County's Chief Executive Officer and the Town's Town Manager) 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 involuntary 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 1700
Irvine, CA 92612
Attention: Lona N. Laymon

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

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.

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 Located 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, effective July 1, 2014*)
County of San Bernardino Real Estate Services Department 385 North Arrowhead Avenue San Bernardino, CA. 92415-0180	79% (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 Exhibit "D" (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

I. WORKPLAN

The Parties to the Co-Ownership Agreement shall accomplish, or have already accomplished via a Joint Powers Authority (defined below), the following Steps to develop the Facility (as defined below), all of which steps have, or shall, occur over the twelve (12) month period following December 1, 2012:

Step 1: (0 to 3 months)

As of December 1, 2012,, the Board of the former Authority (as defined below) 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 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 a competitive bid process. The Authority oversaw the construction of the replacement Animal Care and Control Facility and appointed a Construction Project Manager ("Project Manager") to oversee the construction of the Project through completion (which completion is demonstrable by issuance of a certificate of occupancy). The Project Manager has authority to approve change orders during the course of construction in an established amount and within a limited contingency budget that was determined and approved by the Authority, or by the Co-Owners should Authority be dissolved.

Step 2: (4 to 6 months)

The Authority Board has, during its regularly scheduled meetings, received reports from the Town and Project Manager regarding the status of the construction Project and any change order modifications that were suggested and approved by the Project Manager within the established spending limits. The Authority Board addressed any issues or considerations that arose during construction.

Step 3: (7 to 9 months)

The Board of the Authority proceeded with construction Project oversight. The Project Manager was tasked with developing recommendations for furnishings, fixtures, and equipment obtained through a traditional competitive bid process. The Authority Board was authorized to approve 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 received a construction completion report and summary from the general contractor and acknowledged any cost savings that resulted from contingencies established within the Project budget. The Authority recommended any modifications to contribution schedule outlined in the following Exhibit "D", Table F-1, and ensured that any credits realized from the construction Project were proportionally credited to both Town and County. The Authority Board was required to ensure that title to the completed Facility was conveyed to both parties as necessary for this Co-Ownership Agreement.

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 the following Exhibit "E" (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 the following Exhibit "D", 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 Exhibit "E". 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 \$1,995,000). 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 Exhibit "D", 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 Exhibit "D". 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 Authority Board secured 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 Exhibit "D", 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 the accompanying Exhibit "D".

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 Nine Hundred and Ninety Thousand Dollars (\$3,990,000).
4. The Town and County agree that the work/services rates reflected in the Operational Agreement (accompanying Exhibit "E") 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.

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 Authority dissolved on June 30, 2014, after a point in time when construction was deemed 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 accompanying Exhibit "E" – 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 this Co-Ownership Agreement, 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 therefrom.
6. 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 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.

EXHIBIT D
JOINT FUNDING AGREEMENT

I. OBLIGATIONS

- A. The terms used herein shall bear the same meanings/definitions as ascribed to them in the preceding Exhibit "C".
- 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 construction shall not exceed, or has not exceeded, Three Million Nine Hundred and Ninety Thousand (\$3,990,000) 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 paid to Authority an amount not to exceed Three Million Seventy Four Thousand Two Hundred Seventy Dollars (\$3,074,270) toward the cost of constructing the Facility. The Town made a monetary Town Contribution by depositing Four Hundred Ninety Seven Thousand Five Hundred (\$497,500) with the Authority towards the construction of the new Facility and agreed 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 (as herein set forth).
- 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 Authority, the County obtained 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 (accompanying Exhibit "E"). 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 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 Co-Owners shall provide full cooperation and assistance to each other.
- J. In the performance of this Agreement, the officers, agents and employees of the Co-Owners 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 were, and shall continued to, be held in a separate, interest-bearing account to be maintained at an institution agreed upon by the (the Shelter Joint Special Revenue Fund, hereafter referred to as the "Joint Fund").

II. FACILITY DESIGN AND CONSTRUCTION

- A. The Authority functioned as the Project Manager for this project and retained 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 Co-Owners and Authority agreed that all designs and specifications for the Facility were 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. The County's review and approval of Facility designs and specifications

included review by County's Department of Architecture and Engineering.

- C. Authority 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 were jointly reviewed and approved by the Authority Board prior to the selection of vendors and/or the awarding of contracts.
- D. Authority made 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. If Authority encountered unanticipated delays in the construction of the Facility, it provided immediate written notice to the Members. Upon receipt of such notice, representatives of the Members conferred 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 Co-Owners then allowed 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 %		
		\$ 915,730.00	23%	Total Costs	\$ 3,990,000
2014-15	\$ 53,963.50	\$ 969,693.50	24%		
2015-16	\$ 53,963.50	\$ 1,023,657.00	26%	Contingency	\$ 339,790
2016-17	\$ 53,963.50	\$ 1,077,620.50	27%		
2017-18	\$ 53,963.50	\$ 1,131,584.00	28%		
2018-19	\$ 53,963.50	\$ 1,185,547.50	30%		
2019-20	\$ 53,963.50	\$ 1,239,511.00	31%	Town Share	\$ 1,995,000 50%
2020-21	\$ 53,963.50	\$ 1,293,474.50	32%	Town Contributions	\$ (915,730)
2021-22	\$ 53,963.50	\$ 1,347,438.00	34%		
2022-23	\$ 53,963.50	\$ 1,401,401.50	35%	Town Balance	\$ 1,079,270
2023-24	\$ 53,963.50	\$ 1,455,365.00	36%		
2024-25	\$ 53,963.50	\$ 1,509,328.50	38%		
2025-26	\$ 53,963.50	\$ 1,563,292.00	39%		
2026-27	\$ 53,963.50	\$ 1,617,255.50	41%		
2027-28	\$ 53,963.50	\$ 1,671,219.00	42%		
2028-29	\$ 53,963.50	\$ 1,725,182.50	43%		
2029-30	\$ 53,963.50	\$ 1,779,146.00	45%		
2030-31	\$ 53,963.50	\$ 1,833,109.50	46%		
2031-32	\$ 53,963.50	\$ 1,887,073.00	47%		
2032-33	\$ 53,963.50	\$ 1,941,036.50	49%		
2033-34	\$ 53,963.50	\$ 1,995,000.00	50%		

TABLE F-2

Projected Town Contribution Summary

Description	Amount	
TOTAL CONTRIBUTION/CREDIT	\$ 915,730	
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
Road Improvements	\$ 120,000	
Land Purchase	\$ 60,000	
Current Shelter value	\$ 60,000	
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)

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.

EXHIBIT E
OPERATIONAL AGREEMENT FOR FACILITY SERVICES

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.
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.

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**

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 to 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 Parties to the Co-Ownership Agreement shall accomplish, or have already accomplished via a Joint Powers Authority (defined below), the following Steps to develop the Facility (as defined below), all of which steps have, or shall, occur over the twelve (12) month period following December 1, 2012:

Step 1: (0 to 3 months)

As of December 1, 2012,, the Board of the former Authority (as defined below) 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 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 a competitive bid process. The Authority oversaw the construction of the replacement Animal Care and Control Facility and appointed a Construction Project Manager ("Project Manager") to oversee the construction of the Project through completion (which completion is demonstrable by issuance of a certificate of occupancy). The Project Manager has authority to approve change orders during the course of construction in an established amount and within a limited contingency budget that was determined and approved by the Authority, or by the Co-Owners should Authority be dissolved.

Step 2: (4 to 6 months)

The Authority Board has, during its regularly scheduled meetings, received reports from the Town and Project Manager regarding the status of the construction Project and any change order modifications that were suggested and approved by the Project Manager within the established spending limits. The Authority Board addressed any issues or considerations that arose during construction.

Step 3: (7 to 9 months)

The Board of the Authority proceeded with construction Project oversight. The Project Manager was tasked with developing recommendations for furnishings, fixtures, and equipment obtained through a traditional competitive bid process. The Authority Board was authorized to approve 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 received a construction completion report and summary from the general contractor and acknowledged any cost savings that resulted from contingencies established within the Project budget. The Authority recommended any modifications to contribution schedule outlined in the following Exhibit "D", Table F-1, and ensured that any credits realized from the construction Project were proportionally credited to both Town and County. The Authority Board was required to ensure that title to the completed Facility was conveyed to both parties as necessary for this Co-Ownership Agreement.

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 the following Exhibit “E” (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 the following Exhibit “D”, 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 Exhibit “E”. 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 \$1,995,000). 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 Exhibit “D”, 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 Exhibit "D". 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 Authority Board secured 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 Exhibit "D", 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 the accompanying Exhibit "D".

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 Nine Hundred and Ninety Thousand Dollars (\$3,990,000).
4. The Town and County agree that the work/services rates reflected in the Operational Agreement (accompanying Exhibit "E") 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.

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 Authority dissolved on June 30, 2014, after a point in time when construction was deemed 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 accompanying Exhibit "E" – 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 this Co-Ownership Agreement, 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 therefrom.
6. 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 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 the preceding Exhibit "C".
- 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 construction shall not exceed, or has not exceeded, Three Million Nine Hundred and Ninety Thousand (\$3,990,000) 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 paid to Authority an amount not to exceed Three Million Seventy Four Thousand Two Hundred Seventy Dollars (\$3,074,270) toward the cost of constructing the Facility. The Town made a monetary Town Contribution by depositing Four Hundred Ninety Seven Thousand Five Hundred (\$497,500) with the Authority towards the construction of the new Facility and agreed 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 (as herein set forth).
- 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 Authority, the County obtained 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 (accompanying Exhibit "E"). 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 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 Co-Owners shall provide full cooperation and assistance to each other.
- J. In the performance of this Agreement, the officers, agents and employees of the Co-Owners 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 were, and shall continued to, be held in a separate, interest-bearing account to be maintained at an institution agreed upon by the (the Shelter Joint Special Revenue Fund, hereafter referred to as the "Joint Fund").

II. FACILITY DESIGN AND CONSTRUCTION

- A. The Authority functioned as the Project Manager for this project and retained 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 Co-Owners and Authority agreed that all designs and specifications for the Facility were 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. The County's review and approval of Facility designs and specifications

included review by County's Department of Architecture and Engineering.

- C. Authority 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 were jointly reviewed and approved by the Authority Board prior to the selection of vendors and/or the awarding of contracts.
- D. Authority made 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. If Authority encountered unanticipated delays in the construction of the Facility, it provided immediate written notice to the Members. Upon receipt of such notice, representatives of the Members conferred 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 Co-Owners then allowed 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 %			
		\$ 915,730.00	23%	Total Costs	\$ 3,990,000	
2014-15	\$ 53,963.50	\$ 969,693.50	24%			
2015-16	\$ 53,963.50	\$ 1,023,657.00	26%	Contingency	\$ 339,790	
2016-17	\$ 53,963.50	\$ 1,077,620.50	27%			
2017-18	\$ 53,963.50	\$ 1,131,584.00	28%			
2018-19	\$ 53,963.50	\$ 1,185,547.50	30%			
2019-20	\$ 53,963.50	\$ 1,239,511.00	31%	Town Share	\$ 1,995,000	50%
2020-21	\$ 53,963.50	\$ 1,293,474.50	32%	Town Contributions	\$ (915,730)	
2021-22	\$ 53,963.50	\$ 1,347,438.00	34%			
2022-23	\$ 53,963.50	\$ 1,401,401.50	35%	Town Balance	\$ 1,079,270	
2023-24	\$ 53,963.50	\$ 1,455,365.00	36%			
2024-25	\$ 53,963.50	\$ 1,509,328.50	38%			
2025-26	\$ 53,963.50	\$ 1,563,292.00	39%			
2026-27	\$ 53,963.50	\$ 1,617,255.50	41%			
2027-28	\$ 53,963.50	\$ 1,671,219.00	42%			
2028-29	\$ 53,963.50	\$ 1,725,182.50	43%			
2029-30	\$ 53,963.50	\$ 1,779,146.00	45%			
2030-31	\$ 53,963.50	\$ 1,833,109.50	46%			
2031-32	\$ 53,963.50	\$ 1,887,073.00	47%			
2032-33	\$ 53,963.50	\$ 1,941,036.50	49%			
2033-34	\$ 53,963.50	\$ 1,995,000.00	50%			

TABLE F-2

Projected Town Contribution Summary

Description	Amount	
TOTAL CONTRIBUTION/CREDIT	\$ 915,730	
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
Road Improvements	\$ 120,000	
Land Purchase	\$ 60,000	
Current Shelter value	\$ 60,000	
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)

- 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

ATTACHMENT B

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 FOR FACILITY SERVICES

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.
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.

ATTACHMENT C

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 or 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 (changes which do not exceed ten percent [10%] to any line item) to the budgets or schedules shown in the Exhibits may be approved by the principle representatives for each respective Co-owner (the County's Chief Executive Officer and the Town's Town Manager) 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 involuntary 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 1700
Irvine, CA 92612
Attention: Lona N. Laymon

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

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.

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 Located 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, effective July 1, 2014*)
County of San Bernardino Real Estate Services Department 385 North Arrowhead Avenue San Bernardino, CA. 92415-0180	79% (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 Exhibit "D" (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

I. WORKPLAN

The Parties to the Co-Ownership Agreement shall accomplish, or have already accomplished via a Joint Powers Authority (defined below), the following Steps to develop the Facility (as defined below), all of which steps have, or shall, occur over the twelve (12) month period following December 1, 2012:

Step 1: (0 to 3 months)

As of December 1, 2012,, the Board of the former Authority (as defined below) 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 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 a competitive bid process. The Authority oversaw the construction of the replacement Animal Care and Control Facility and appointed a Construction Project Manager ("Project Manager") to oversee the construction of the Project through completion (which completion is demonstrable by issuance of a certificate of occupancy). The Project Manager has authority to approve change orders during the course of construction in an established amount and within a limited contingency budget that was determined and approved by the Authority, or by the Co-Owners should Authority be dissolved.

Step 2: (4 to 6 months)

The Authority Board has, during its regularly scheduled meetings, received reports from the Town and Project Manager regarding the status of the construction Project and any change order modifications that were suggested and approved by the Project Manager within the established spending limits. The Authority Board addressed any issues or considerations that arose during construction.

Step 3: (7 to 9 months)

The Board of the Authority proceeded with construction Project oversight. The Project Manager was tasked with developing recommendations for furnishings, fixtures, and equipment obtained through a traditional competitive bid process. The Authority Board was authorized to approve 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 received a construction completion report and summary from the general contractor and acknowledged any cost savings that resulted from contingencies established within the Project budget. The Authority recommended any modifications to contribution schedule outlined in the following Exhibit "D", Table F-1, and ensured that any credits realized from the construction Project were proportionally credited to both Town and County. The Authority Board was required to ensure that title to the completed Facility was conveyed to both parties as necessary for this Co-Ownership Agreement.

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 the following Exhibit "E" (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 the following Exhibit "D", 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 Exhibit "E". 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 \$1,995,000). 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 Exhibit "D", 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 Exhibit "D". 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 Authority Board secured 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 Exhibit "D", 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 the accompanying Exhibit "D".

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 Nine Hundred and Ninety Thousand Dollars (\$3,990,000).
4. The Town and County agree that the work/services rates reflected in the Operational Agreement (accompanying Exhibit "E") 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.

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 Authority dissolved on June 30, 2014, after a point in time when construction was deemed 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.

ATTACHMENT D

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 accompanying Exhibit "E" – 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 this Co-Ownership Agreement, 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 therefrom.
6. 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 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.

EXHIBIT D
JOINT FUNDING AGREEMENT

I. OBLIGATIONS

- A. The terms used herein shall bear the same meanings/definitions as ascribed to them in the preceding Exhibit "C".
- 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 construction shall not exceed, or has not exceeded, Three Million Nine Hundred and Ninety Thousand (\$3,990,000) 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 paid to Authority an amount not to exceed Three Million Seventy Four Thousand Two Hundred Seventy Dollars (\$3,074,270) toward the cost of constructing the Facility. The Town made a monetary Town Contribution by depositing Four Hundred Ninety Seven Thousand Five Hundred (\$497,500) with the Authority towards the construction of the new Facility and agreed 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 (as herein set forth).
- 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 Authority, the County obtained 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 (accompanying Exhibit "E"). 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 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 Co-Owners shall provide full cooperation and assistance to each other.
- J. In the performance of this Agreement, the officers, agents and employees of the Co-Owners 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 were, and shall continued to, be held in a separate, interest-bearing account to be maintained at an institution agreed upon by the (the Shelter Joint Special Revenue Fund, hereafter referred to as the "Joint Fund").

II. FACILITY DESIGN AND CONSTRUCTION

- A. The Authority functioned as the Project Manager for this project and retained 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 Co-Owners and Authority agreed that all designs and specifications for the Facility were 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. The County's review and approval of Facility designs and specifications

included review by County's Department of Architecture and Engineering.

- C. Authority 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 were jointly reviewed and approved by the Authority Board prior to the selection of vendors and/or the awarding of contracts.
- D. Authority made 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. If Authority encountered unanticipated delays in the construction of the Facility, it provided immediate written notice to the Members. Upon receipt of such notice, representatives of the Members conferred 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 Co-Owners then allowed 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 %		
		\$ 915,730.00	23%	Total Costs	\$ 3,990,000
2014-15	\$ 53,963.50	\$ 969,693.50	24%		
2015-16	\$ 53,963.50	\$ 1,023,657.00	26%	Contingency	\$ 339,790
2016-17	\$ 53,963.50	\$ 1,077,620.50	27%		
2017-18	\$ 53,963.50	\$ 1,131,584.00	28%		
2018-19	\$ 53,963.50	\$ 1,185,547.50	30%		
2019-20	\$ 53,963.50	\$ 1,239,511.00	31%	Town Share	\$ 1,995,000 50%
2020-21	\$ 53,963.50	\$ 1,293,474.50	32%	Town Contributions	\$ (915,730)
2021-22	\$ 53,963.50	\$ 1,347,438.00	34%		
2022-23	\$ 53,963.50	\$ 1,401,401.50	35%	Town Balance	\$ 1,079,270
2023-24	\$ 53,963.50	\$ 1,455,365.00	36%		
2024-25	\$ 53,963.50	\$ 1,509,328.50	38%		
2025-26	\$ 53,963.50	\$ 1,563,292.00	39%		
2026-27	\$ 53,963.50	\$ 1,617,255.50	41%		
2027-28	\$ 53,963.50	\$ 1,671,219.00	42%		
2028-29	\$ 53,963.50	\$ 1,725,182.50	43%		
2029-30	\$ 53,963.50	\$ 1,779,146.00	45%		
2030-31	\$ 53,963.50	\$ 1,833,109.50	46%		
2031-32	\$ 53,963.50	\$ 1,887,073.00	47%		
2032-33	\$ 53,963.50	\$ 1,941,036.50	49%		
2033-34	\$ 53,963.50	\$ 1,995,000.00	50%		

TABLE F-2

Projected Town Contribution Summary

Description	Amount	
TOTAL CONTRIBUTION/CREDIT	\$ 915,730	
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
Road Improvements	\$ 120,000	
Land Purchase	\$ 60,000	
Current Shelter value	\$ 60,000	
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)

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.

EXHIBIT E
OPERATIONAL AGREEMENT FOR FACILITY SERVICES

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.
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

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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.

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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.

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