

**INTERGOVERNMENTAL AGREEMENT BETWEEN
PINAL COUNTY
AND
THE TOWN OF SUPERIOR
FOR ANIMAL CARE AND CONTROL SERVICES**

This Intergovernmental Agreement (the “**Agreement**”) is entered into this 1st day of December 2023 by and between PINAL COUNTY, a political subdivision of the State of Arizona on behalf of the Pinal County Animal Care and Control Department (“**County**”) and THE TOWN OF SUPERIOR, a political subdivision of the State of Arizona (“**Superior**” or “**Town**”) for the provision and acquisition of animal care and control services from the Pinal County Animal Care and Control Department (“**PCACC**”). County and Superior are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, the Parties are authorized to enter into intergovernmental agreements for the purposes of contracting for services, jointly exercising powers common to the contracting parties, and taking joint or cooperative action pursuant to A.R.S. §§ 11-951 *et seq.*; and Chapter 7 Articles 7-1 through 7-5 of the Superior Town Code; and,

WHEREAS the Town has the, authority to adopt and enforce animal care and control regulations and certain services within its incorporated limits pursuant to A.R.S. §§ 9-240, 9-499.04 and the Superior Town Code; and,

WHEREAS the County has authority to enforce Town ordinances for the control of dogs pursuant to A.R.S. § 11-1005(A) (3); and

WHEREAS the County has established a County Enforcement Agent, a Division of Animal Care and Control and a County Shelter pursuant to ARS §§ 11-1001 *et seq.*; and

WHEREAS the Town has requested the County to provide animal care and control services within the Town's incorporated boundaries as its Animal Control Officer pursuant to Chapter 7 Articles 7-1 through 7-5 of the Town of Superior Code, and enters into this Agreement with the County in order for the County to have jurisdiction to provide those services.

NOW, THEREFORE, the County and Town (collectively, the “Parties”), pursuant to the above and in consideration of the matters and things hereinafter set forth, do mutually agree as follows:

AGREEMENT

1. **PURPOSE AND INTENT**. This IGA sets forth the terms and conditions under which County will provide Animal Care and Control Services to Superior.
2. **TERM, TERMINATION, AND RENEWAL**.
 - A. Unless terminated as otherwise provided in the Agreement, this Agreement shall become effective on the 1st day of December, and shall remain in effect until the 30th day of June, 2026.
 - B. Either Party may terminate this Agreement by providing sixty (60) days advance written notice of termination to the other Party.
 - C. Either Party to this Agreement may request a renewal of this Agreement, for subsequent one year term(s) by providing sixty (60) days’ advance notice prior to the date of expiration of that Party’s intent to extend. Any renewal of this Agreement must be via a written mutually agreed upon and signed Amendment to this Agreement. Notwithstanding the preceding, unless terminated early as provided above, this Agreement may be automatically renewed for up to two (2) subsequent 3-year terms.

3. MUTUAL OBLIGATIONS.

- A. County and Town Ordinances to be Enforced. The Parties agree that the provisions of the **Pinal County Animal Care and Control Ordinance 101817-ACC**, (provisions pertaining to kennels may be exempted), shall be the only source for enforcement actions by the County under this Agreement.

Town agrees to suspend enforcement of the provisions of the Town Code during the term of this Agreement, and defer to the Pinal County Animal Care and Control Ordinance 101817-ACC, less the kennel provisions if applicable, for its animal control and care services and enforcement by the Pinal County Animal Care and Control officer.

Either party shall immediately notify the other party of an anticipated amendment to their respective ordinance that may effect this Agreement.

B. County agrees to:

1. Provide the following Animal Care and Control Services:
 - i. Two rabies vaccination/licensing clinics per calendar year.
 - ii. Respond to all priority or emergency calls regarding animal care and control from/within the incorporated boundaries of Superior.
 - iii. Trap nuisance dogs (if weather permits and not in outdoor temperatures of 90 degrees and above).
 - iv. Impound stray, sick, injured or aggressive animals.
 - v. Humane care and maintenance of impounded dogs and cats, sheltering services.
 - vi. Quarantine at an available shelter of County's choosing.
 - vii. Quarantine in place monitoring and posting.
 - viii. When necessary, the humane euthanasia and disposal of impounded animals.
 - ix. Investigate of animal cruelty and neglect complaints, hoarding cases, at the request of the Superior Police Department.
 - x. Assist/seek civil and criminal prosecution of civil violations and criminal statutes involving animals, within the scope or authority of Pinal County Animal Care and Control.
 - xi. Initiate two "sweeps" per calendar year, as weather permits. Sweeps consist of 1-2 Animal Control Officers driving through the Town at the same time on the same day locating stray or owned animals running at large. To the extent feasible, attempts will be made to reunite animals with owners or take animals to the shelter in Casa Grande. The timing, specific activities and course involved in each sweep will be determined in the sole discretion of PCACC.
 - xii. Weekly visits to Superior from an Animal Control Officer if possible and as staffing allows. These visits will be at the discretion of The County.
2. Provide billing/invoicing documentation to Superior's POC per **Section 8.A** and **Appendix [App.] 'A'**.
3. Upon request from Town, provide access to reports arising from Town calls for service.
4. Provide kenneling of Town animals as provided in **App. 'A'**.

C. Superior agrees to:

1. Promptly convey/communicate calls for service to County as follows:
 - i. Via the Pinal County Call Center at **(520) 509-3555** during **normal business hours**; and
 - ii. Via the PCSO non-emergency line at **(520) 866-5111** during **after-hours**.
2. Timely send payment to County POC for all services arising out of this Agreement in accordance with **Section 8.A** and **App. 'A'**.
3. Make any and all necessary records, information and evidence available to County upon request.

4. Cooperate with County in all practical matters necessary to effectuate the purpose and intent of this Agreement, including, but not limited to: facilitating access to scenes, locations and property; and collection of remains and other necessary and appropriate items and evidence.
 5. Upon County's reasonable request, provide and maintain scene access and security for County personnel and County property for any animal care and control calls for service incident/event located within the boundaries of Town.
- D. Applicable Policies and Practices.** Superior acknowledges and agrees that County will provide and perform animal care and control services according to applicable law, County Policies/Practices and the terms of this Agreement.
- E. Facilities, Equipment and Vehicles.** To fulfill the obligations of this Agreement, the Town of Superior will allow Pinal County to use any Town facilities, equipment, vehicles and/or materials presently dedicated for animal control care and control at no cost to the County. County may, but is not obligated to, use any such Town facilities, equipment, vehicles and/or materials.
- F. Open Communications.** County and Superior shall maintain open communications between each Party's designated point of contact ["POC"] (listed in **Paragraph 8.A** below) to ensure the agreed upon performances are provided and maintained throughout the term of this agreement. Parties shall maintain open communication regarding needs arising out of the Agreement.
- G. Billing and Payment.** Billing, invoicing and payment of costs arising out of this Agreement shall be administered according to the schedule provided in **App. 'A'**.

4. SUPERVISION, EQUIPMENT AND MATERIALS.

No employee, agent, or servant of a Party shall be deemed to be an employee, agent or servant of the other Party. Each Party will be solely and entirely responsible for its acts and the acts of its employees, agents, servants, subcontractors, and volunteers during the performance of this Agreement. Each Party will have total responsibility for all salaries, wages, bonuses, retirement withholdings, worker's compensation, occupational disease compensation, unemployment compensation, other employment compensation, other employee benefits, and all employer's taxes and premiums concerning the persons who are supplied by that Party in the performance of this Agreement, and each Party agrees to hold the other Party harmless from any liability thereof.

County shall have sole supervisory authority over County personnel, operations, services, property, facilities and materials; and Superior shall have sole supervisory authority over Superior personnel, operations and property.

The Parties agree to avoid using the other Party's materials and/or equipment for purposes not directly associated with the purpose and intent of this Agreement without the prior express written consent from the Party to whom the equipment and/or materials belong. However, this provision shall not be construed to prohibit any use of materials or equipment of another Party that is merely nominal, incidental, or on an emergency basis.

5. **RECORDS.** The Parties acknowledge and agree that the County shall provide Superior with the attendant records of Superior matters and that requests for such records shall be referred to Superior, to be administered by Superior. Notwithstanding this, Superior acknowledges and agrees that the County shall administer records in County's possession according to all attendant laws, regulations, rules and policies respectively applicable to County records
6. **INSURANCE.** Each Party acknowledges and affirms that it has appropriate and adequate insurance coverage for its official operations, duties and activities, and that it will maintain such coverage, at its own expense, for the duration of this Agreement.
7. **INDEMNIFICATION.**

- A. To the maximum extent permitted by law, each Party (as "Indemnitor") agrees to indemnify, defend and hold harmless the other Party, its officers, officials, agents, employees, or volunteers from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of actions taken in performance of this IGA to the extent that such Claims are caused by the acts, omissions, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. If a Claim or Claims by third parties becomes subject to this Section, the parties to this IGA that are the subject of the Claim or Claims shall expeditiously meet to agree upon a common and mutual defense pursuant to Subsection (B) below, including proportionate liability and proportionate payment of litigation fees, expenses and damages.
- B. The Parties when involved in a Claim or Claims brought by a third-party have a common interest in a coordinated defense in any lawsuit. In the absence of a conflict and to the extent applicable, the Parties agree to have one lawyer jointly represent the defendants in the lawsuit. To the extent applicable, the Parties agree to abide by the Memorandum of Understanding Regarding Joint Defense ("MOU") between the Arizona Counties Insurance Pool ("ACIP") and the Arizona Municipal Risk Retention Pool ("AMRRP"). Each applicable Party acknowledges that it has received a copy of the MOU from either ACIP or AMRRP.
- C. The obligations under this Section shall survive the termination of this Agreement.

8. **GENERAL.**

- A. **Notices.** All notices to the other Party required under this Agreement shall be in writing and sent to the following personnel:

If to Superior:

Name Todd Pryor

Title Town Manager

Department _____

Mailing Address PO Box 218

Superior, AZ 85173

Phone: 520-~~689~~-5752

If to County:

Director
Pinal County Animal Care and Control
1150 S. Eleven Mile Corner Rd.
Casa Grande, AZ 85194
Phone: (520) 866-7605

- B. **Authority to Execute.** The individuals executing this Agreement on behalf of the Parties hereto represent that they have authority to execute this Agreement on behalf of such parties, and represent that upon execution, this Agreement shall be binding and no further action is or shall be necessary to make the Agreement enforceable in its entirety.
- C. **Compliance with Laws and Policies.** The parties shall comply with all applicable federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement. Furthermore, the Parties agree to abide by each Party's policies to the extent appropriate and required or permitted by law.
- D. **Conflicts of Interest.** The provisions of A.R.S. § 38-511 relating to cancellation of contracts due to conflicts of interest shall apply to this Agreement.

- E. Counterparts.** This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- F. Entire Agreement.** This Agreement represents the entire agreement between the Parties and supersedes all prior negotiations, representations or agreements, either expressed or implied, written or oral. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties.
- G. E-Verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Parties and their respective subcontractors warrant compliance with all applicable federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Parties' or a subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by either party under the terms of this Agreement.
- H. Governing Law and Venue.** To the maximum extent possible, terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws and regulations of the State of Arizona. Any action relating to this Agreement shall be brought in an Arizona court in Pinal County provided that nothing herein shall be interpreted as an express or implied waiver of either party's applicable immunity(ies).
- I. Headings.** The section headings throughout this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.
- J. Incorporation of Documents.** All documents referred to in this Agreement are hereby incorporated by reference.
- K. Interparty Dispute Resolution.** If a dispute between the Parties arises out of or relates to this Agreement, and if the dispute cannot be settled through negotiation within sixty (60) days, the Parties agree first to try in good faith to resolve the dispute by mediation before resorting to litigation. The Parties shall mutually agree upon a mediator. Each party agrees to bear its own costs of mediation, and to split the mediator fee. If mediation fails, any claim or action arising out of this Agreement shall be brought in the Pinal County Superior Court in Florence, Arizona.
- L. Modification.** This Agreement shall not be modified or extended except by a mutually signed written agreement.
- M. No Joint Venture.** It is not intended by this Agreement to, and nothing contained in this Agreement shall, be construed to, create any partnership, joint venture or employment relationship between the Parties or create any employer-employee relationship between the Parties' employees. Neither Party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other Party, including, but without limitation, the other Party's obligation to withhold Social Security and income taxes for itself or any of its employees.
- N. No Third Party Beneficiaries.** Nothing in this Agreement is intended to create duties or obligations to or rights in third parties not Parties to this Agreement or affect the legal liability of either Party to the Agreement by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.
- O. Non-Appropriation.** Notwithstanding any other provision in this Agreement, this Agreement may be terminated if for any reason either party does not appropriate sufficient monies for the purpose of maintaining this Agreement. In the event of such cancellation, the canceling party shall have no further obligation other than for payment for services rendered prior to cancellation.
- P. Non-Assignment.** This Agreement has been entered into based upon the personal reputation, expertise and qualifications of the Parties. Neither Party shall assign its interest in this Agreement, in whole or in part, without the prior written consent of the other Party. Neither Party shall assign any monies due or to become due to it hereunder without the prior written consent of the other Party.

- Q. Non-Discrimination and Compliance with Civil Rights.** To the extent applicable by law, the Parties agree to comply with A.R.S. Title 41, Chapter 9 (Civil Rights), Arizona Executive Order 2009-09 and any other federal or state laws relating to equal opportunity and nondiscrimination, including the Americans with Disabilities Act.

Likewise, the Parties agree to comply with all provisions and requirements of Arizona Executive Order 2009-09, if applicable, including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5, which is hereby incorporated into this contract as if set forth in full herein, and may be viewed and downloaded at the Governor of the State of Arizona's website:

http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf.

In the performance of this contract, neither party shall discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

- R. Other Duties Imposed by Law.** Nothing in this Agreement shall be construed as relieving the involved public agencies of any obligation or responsibility imposed on it by law.
- S. Relationship of the Parties.** Each Party shall act in its individual capacity and not as an agent, employee, partner, joint venture, associate, or any other representative capacity of the other party. Each Party shall be solely and entirely responsible for its acts or acts of its agents and employees during the performance of this Agreement. This Agreement shall not be construed to imply authority to perform any tasks, or accept any responsibility, not expressly set forth herein. This Agreement shall be strictly construed against the creation of a duty or responsibility unless the intention to do so is clearly and unambiguously set forth herein. Nothing contained in this Agreement confers any right to any person or entity not a party to this Agreement.
- T. Severability.** If any part, term or provision of this Agreement shall be held illegal, unenforceable or in conflict with any law, the validity of the remaining portions and provisions hereof shall not be affected.
- U. Uncontrollable Events.** No Party shall be considered to be in default in the performance of any obligations under this Agreement (other than obligations of a Party to pay costs and expenses) if failure of performance is due to an uncontrollable event. The term "uncontrollable event" means any cause beyond the control of the Party affected, including but not limited to flood, earthquake, storm, fire, epidemic, war, riot, civil disturbance or disobedience, labor dispute, and action or non-action by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority or the electorate, labor or material shortage, sabotage and restraint by court order or public authority, that by exercise of due diligence and foresight the Party reasonably could not have been expected to avoid and that by exercise of due diligence it will be unable to overcome. A Party that is rendered unable to fulfill any obligation by reason of an uncontrollable event shall exercise due diligence to remove such inability with all reasonable dispatch.
- E. Waiver.** The failure of either Party to insist in any one or more instances on performance of any of the terms or conditions of this Agreement or to exercise any right or privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.
- F. Workers' Compensation.** To the extent applicable by law, each Party shall comply with the notice of A.R.S. § 23-1022(E). For purposes of A.R.S. § 23-1022, each Party shall be considered the primary employer of all personnel currently or hereafter employed by that Party, irrespective of the operations of protocol in place, and said Party shall have the sole responsibility for the payment of Worker's Compensation benefits or other fringe benefits of said employees.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the following duly authorized representatives:

For Pinal County:

By: _____
Chair
Board of Supervisors

Date

ATTEST:

By: _____
Clerk of the Board

Date

APPROVED AS TO FORM:

Deputy County Attorney

Date

For the Town of Superior:

By: _____
Mila Besich
Mayor

Date

ATTEST:

By: _____
Town Clerk

Date

APPROVED AS TO FORM:

Stephen R. Cooper, Town Attorney

Date

(APPENDIX ON FOLLOWING PAGE)

Appendix 'A'
2021 Services Cost Schedule

The Parties agree to the following fees shall be paid by Superior at the "Per Case" rates provided below.¹

Per-Case Cost(s)

<u>Business Hours Services Fee</u>	<u>\$63.00/hour²</u>
<u>After-Hours Services Fee</u>	<u>\$80.00/hour²</u>
<u>Kenneling Fees³</u>	
<u>1st Day Licensed Dog Impound</u>	<u>\$80.00</u>
<u>1st Day Cat Impound</u>	<u>\$35.00</u>
<u>Daily Maintenance Dog/Cat Fee (2nd+ day)</u>	<u>\$35.00/day/animal</u>
<u>Quarantine Fee</u>	<u>\$300.00</u>

Billing, Invoicing, and Payment.

County agrees to send all invoices for costs of services arising from this IGA to Superior, according to Section 8.A ("Notices") of the IGA. Invoices for the Monthly Staffing Fee will be sent on a monthly basis. Invoices for other fees will be sent as they arise according to the Operations of the County.

Superior agrees to send payment in full (in the form, manner and tender deemed acceptable by County) for each invoice to County within no more than 30 days after receipt of such invoice.

NOTE: The above costs are subject to adjustment according to County's sole discretion. Any adjustment in fees will not take effect without the mutual written agreement of the parties.

¹ There is no charge to Superior for:

- a. Euthanasia /disposal.
- b. Rabies testing.
- c. Animals maintained *after* the required waiting period and made available for adoption/rescue.
- d. Calls involving animal bites, rabies exposure, or suspected exposure involving any fur bearing animal.
- e. The preparation, transportation of specimen to the Arizona State Health Department laboratory in Phoenix or Tucson Arizona, where a bite, rabies exposure, or suspected exposure has been investigated by Pinal County Animal Care and Control.

² In order to cover County's administrative costs and burdens incurred as a result of responding to Superior calls for service in addition to existing PCACC duties, Superior will be charged 3 hour minimum for all calls for service. Business hours are weekdays from 7am to 7pm, except for holidays. After-hours times include weekends, holidays, and from 7pm to 7am on weekdays.

³ Kenneling fees consist of an initial (first day) impound fee and daily maintenance fees thereafter beginning on day two. Per A.R.S. § 11-1013 unlicensed dogs and all cats must be maintained a minimum of 72 hours; licensed dogs must be maintained a minimum of 120 hours. Due to the fact the shelter is closed on Holidays, and Sundays, an animal may be maintained 24—72 hours beyond the minimum requirement, in such case the additional day(s) or two will be billed, at the daily maintenance fee of \$35.00.

Superior will be charged for animals that are not claimed by an owner. If owner information is available Superior will be provided the information.