

PARTICIPATION AGREEMENT

This PARTICIPATION AGREEMENT, dated for reference as of _____, 2015 (the "AGREEMENT"), is by and among the COUNTY OF ORANGE (the "COUNTY"), and the cities of [Participating cities subject to change] ANAHEIM, BREA, CYPRESS, FOUNTAIN VALLEY, FULLERTON, GARDEN GROVE, HUNTINGTON BEACH, LAGUNA HILLS, LAKE FOREST, ORANGE, PLACENTIA, RANCHO SANTA MARGARITA, SAN JUAN CAPISTRANO, STANTON, TUSTIN, VILLA PARK, and YORBA LINDA (each, a "CITY," and collectively, the "CITIES" and, together with the County, the "PARTIES").

RECITALS

- A. WHEREAS, COUNTY and each CITY are, or concurrent with the execution of this AGREEMENT, will become, parties to an Agreement for Provision of OC Animal Care Services (the "SERVICES AGREEMENTS"), pursuant to which COUNTY provides animal care services ("SERVICES") in the jurisdictional boundaries of the signatory cities, and;
- B. WHEREAS, COUNTY provides the SERVICES to the CITIES, as well as to the unincorporated areas of the COUNTY, through OC Animal Care ("OCAC"), and;
- C. WHEREAS, COUNTY owns, and through OCAC operates, an animal care shelter facility at 561 The City Drive South, Orange, California (the "EXISTING SHELTER"), and;
- D. WHEREAS, the PARTIES agree that, owing to the age and condition of the EXISTING SHELTER, it is now desirable to construct a new facility (the "NEW SHELTER") in which to provide enhanced shelter and care services which will benefit the citizens of each of the PARTIES, and;
- E. WHEREAS, the PARTIES acknowledge that the construction of the NEW SHELTER will impact the operational costs of providing SERVICES pursuant to the SERVICES AGREEMENTS, which costs are shared among the parties in proportion to their usage of the SERVICES; and
- F. WHEREAS, each PARTY agrees that the construction of the NEW SHELTER is a benefit to, and necessary to meet the social needs of, each PARTIES' respective citizens, and, therefore, the PARTIES desire to enter into this AGREEMENT to set

forth terms governing the construction of the NEW SHELTER and the allocation among the PARTIES, and the method of payment of, the increased costs of SERVICES resulting from the construction of the NEW SHELTER.

NOW, THEREFORE, in consideration of the foregoing recitals of fact, the mutual covenants and conditions contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the PARTIES agree as follows:

1. Design & Construct

1.1. **COUNTY Responsibilities:** COUNTY shall be responsible for the design; preparation of all studies, analyses and documents necessary to deliver the NEW SHELTER, including any CEQA environmental documentation; obtaining all permits; administration; and construction of the NEW SHELTER.

1.2. **Site:** Construction of the NEW SHELTER is sited for the 10 acre area of land on the Old Tustin Air Force Base located at the 1500 block of Armstrong Avenue in Tustin, CA and identified on Exhibit A, attached hereto (the "SITE").

1.3. **Design Concept:** COUNTY has developed the initial design concept of the NEW SHELTER, attached hereto as Exhibit B. The design of the NEW SHELTER is scalable based on usage needs. COUNTY shall use best efforts to scale the final design of the NEW SHELTER to a size reasonably appropriate for the total requirements of those CITIES that elect to be parties to this AGREEMENT.

1.4. **Project Development:** COUNTY has or shall retain the services of a licensed design-build contractor ("CONTRACTOR") to perform further design and all engineering, planning, preparation of plans and specifications, and complete construction of the NEW SHELTER, including construction management and post-construction activities, pursuant to a written agreement between COUNTY and CONTRACTOR, as the same may be amended from time to time (the "CONSTRUCTION CONTRACT").

1.5. **Design Advisory Board:** COUNTY shall establish a Design Advisory Board (the "DESIGN ADVISORY BOARD") to provide input to COUNTY regarding the design of the NEW SHELTER. COUNTY shall, in good faith, reasonably consider the input of the DESIGN ADVISORY BOARD in making COUNTY'S determinations regarding the design of the NEW SHELTER.

Nevertheless, COUNTY is not bound to follow the recommendations of the DESIGN ADVISORY BOARD and the ultimate determination as to the design of the NEW SHELTER rests entirely with COUNTY. The DESIGN ADVISORY BOARD shall consist of at least three staff members from the City Managers Association Animal Care Committee referenced in Paragraph IV of Exhibit A of the SERVICES AGREEMENT. At least two (2) of the staff members shall be chosen collectively by those CITIES whose shelter usage each individually constituted more than eight percent (8%) of total usage of the EXISTING SHELTER for fiscal year 2014/2015. The third staff member shall be chosen by mutual agreement of the remaining CITIES.

1.6. **Use of NEW SHELTER.** The completed NEW SHELTER shall be owned by COUNTY and shall be used by COUNTY for the provision of SERVICES for contracting cities and COUNTY unincorporated areas, as needed, pursuant to the terms of current and future SERVICES AGREEMENTS. In the event COUNTY elects to discontinue usage of the NEW SHELTER for animal sheltering purposes prior to December 31, 2066, COUNTY shall offer to those CITIES then currently contracting with COUNTY to receive SERVICES pursuant to a SERVICES AGREEMENTS the opportunity to lease the NEW SHELTER strictly for animal sheltering purposes until such date, at a costs of \$1.00 per year plus all rental costs, if any, owed to SOCCCD pursuant to the Ground Lease to be entered into between COUNTY and SOCCCD pursuant to the LETTER OF INTENT defined below (the "GROUND LEASE"). Each and every CITY exercising this option shall be responsible for all operational costs; utility costs; maintenance, alteration, repair and improvement costs; and any other costs of sustaining and operating an animal shelter at the SITE and shall indemnify COUNTY for any costs or liabilities resulting from or relating to the SITE. Upon exercise of the option, the COUNTY and the optioning CITIES shall use best efforts to negotiate mutually agreeable terms for the resulting lease. If the PARTIES cannot agree to mutually agreeable terms within one hundred and eighty (180) days after the exercise of the option, the option will terminate. The option provided for in this subsection is exclusive to those CITIES described above and may only be exercised collectively by those CITIES that elect to exercise the option or, if only one CITY wishes to do so, by that single electing CITY. The option must be exercised, if at all, within one hundred and eighty (180) days after COUNTY notifies CITIES of its decision to discontinue use of the NEW SHELTER for animal sheltering purposes. The option provided herein shall be contingent upon the GROUND LEASE not terminating by its terms prior to

COUNTY obtaining fee hold possession of the SITE. In the event COUNTY does not yet have fee hold possession of the SITE as of April 29, 2034, the expiration date of the GROUND LEASE, COUNTY shall, at least six months prior to that date, consult with those CITIES then contracting with COUNTY for SERVICES regarding proposed methods of accessing continued use of the SITE. Upon execution of the GROUND LEASE, COUNTY and CITIES shall consult regarding any assistance CITIES can provide to facilitate and expedite conveyance of the SITE to COUNTY.

1.7. **Contingency:** All obligations created by this Agreement are contingent upon the full execution of the GROUND LEASE and receipt of possession of the SITE by COUNTY.

2. Construction Costs Allocation

2.1 **Total Costs:** Total cost of NEW SHELTER construction shall include: a) all design development costs; b) all costs incurred by COUNTY pursuant to the CONSTRUCTION CONTRACT; c) all site preparation costs; d) all costs of fixtures; e) all costs incurred by COUNTY under the Amended and Restated Agreement for the Exchange of Real Property to be entered into between COUNTY and the South Orange County Community College District (the "SOCCCD") pursuant to the Letter of Intent Regarding the Proposal to Ground Lease SOCCD Exchange Parcel to County of Orange For Development as Animal Care Center/Amendment of County-SOCCCD Land Exchange Agreement, which Letter of Intent is attached hereto as Exhibit C (the "LETTER OF INTENT"), as the same may be amended from time to time, as well as any costs incurred pursuant to the LETTER OF INTENT itself; and f) any and all other costs incurred by COUNTY for any construction or construction related activity on the Site incurred in connection with the NEW SHELTER (the "ACTUAL CONSTRUCTION COSTS"). The maximum amount to be paid hereunder as ACTUAL CONSTRUCTION COSTS is set forth on Exhibit D, attached hereto (the "MAXIMUM CONSTRUCTION COSTS"). Upon completion of the NEW SHELTER, COUNTY shall provide CITIES with a full accounting of the application of all funds spent on ACTUAL CONSTRUCTION COSTS.

2.2 **COUNTY's Contribution:** COUNTY shall contribute toward the construction of the NEW SHELTER the land upon which the NEW SHELTER shall be constructed and five million dollars (\$5,000,000.00) to be applied toward

MAXIMUM CONSTRUCTION COSTS. Any COUNTY funds paid by COUNTY toward ACTUAL CONSTRUCTION COSTS on or after the execution of this AGREEMENT shall count toward the \$5,000,000 to be contributed by COUNTY and will be applied toward costs of construction as necessary to cover any discrepancy between available CITY payment funds and ACTUAL CONSTRUCTION COSTS as they become due and payable.

2.3 CITIES' Contribution: The remainder of MAXIMUM CONSTRUCTION COSTS beyond the five million dollars (\$5,000,000.00) paid by COUNTY ("CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS") will be divided among the CITIES based on the formula set forth in Exhibit D, attached hereto. Each CITY'S respective percentage share of CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS, as determined by said formula, is also set forth on Exhibit D. On that date which is five (5) years after the full execution of this AGREEMENT, each CITY'S respective percentage share of CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS shall be recalculated based on the same formula as set forth in Exhibit D but using then current statistical data. If any CITY'S respective percentage share of CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS is altered by the recalculation by more than five percentage points, then each CITY'S total share of CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS shall be recalculated so that the originally calculated percentage shall be applied to one half of CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS and the recalculated percentage shall be applied to the second half of CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS. All future payments owed by each CITY shall be adjusted based on the results of the recalculation of each such CITY'S total share of CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS. If said adjustment results in a reduction in the amount owing by any CITY that, as of that time, has already fully paid its share of the MAXIMUM CONSTRUCTION COSTS, such reduction shall be credited as an offset against future charges, if any, under such CITY'S SERVICES AGREEMENT. If said adjustment results in an increase in the amount owing by any CITY that, as of that time, has already fully paid its previously calculated share of the MAXIMUM CONSTRUCTION COSTS, the amount of such increase shall be due and payable pursuant to the same payment schedule as those CITIES that have not elected to prepay their share of MAXIMUM CONSTRUCTION COSTS, subject to the same prepayment option. COUNTY shall, upon request of a CITY, provide the requesting CITY with copies of the data and documents used to calculate each CITY's percentage

share of CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS.

2.4 Payment Schedule: Each CITY shall pay its full share of CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS, in addition to costs to be paid in accordance with such CITY'S SERVICES AGREEMENT, in consideration of each such CITY'S continuing right to use the NEW SHELTER or the EXISTING SHELTER or any replacement of the NEW SHELTER or the EXISTING SHELTER (together, or any one of them, "SHELTERS") pursuant to the terms of its SERVICES AGREEMENT. Each CITY'S annual obligation to make the payments required hereunder is contingent on the COUNTY making available to such CITY, for the respective year, the use of SHELTERS pursuant to the terms of such CITY'S SERVICES AGREEMENT. At the election of each individual CITY, payment of the amounts owing hereunder may be made in advance of use or may be made over the ten (10) year term of the SERVICES AGREEMENTS in accordance with the Payment Schedule, attached hereto as Exhibit E (the "PAYMENT SCHEDULE"). For CITIES electing not to pay in advance of the scheduled payment, the annual amount each such CITY shall owe hereunder shall be increased by the formula shown on the PAYMENT SCHEDULE as the "ADDITIONAL FUNDING COST." The higher payment amount to be paid by CITIES not electing to pay in advance represents the cost to the COUNTY of the lost value overtime of the money paid by COUNTY toward ACTUAL CONSTRUCTION COSTS beyond the \$5,000,000 provided for above. The amounts indicated on the PAYMENT SCHEDULE further include costs to be incurred by the relevant CITY for each thirty (30) day period that any payment is overdue. Each CITY acknowledges that the construction and availability of SHELTERS for use by each CITY over the term of such CITY'S SERVICES AGREEMENT is a substantial benefit to such CITY. In the event any CITY refuses to receive SERVICES from COUNTY in violation of the terms of such CITY'S SERVICES AGREEMENT despite being offered such SERVICES by COUNTY, or in the case of a default or failure to pay its cost share in accordance with this AGREEMENT, each CITY remains obligated to pay to COUNTY its outstanding payments hereunder as they become due and payable and COUNTY may take any legal action as appropriate to obtain such payment. Further, the PARTIES acknowledge that the payments owing hereunder do not reduce or offset amounts owing pursuant to the SERVICES AGREEMENTS.

3. Participation of New Cities After Commencement of Construction. After full execution of this AGREEMENT, no city will be added to the OCAC SERVICES program for a period of three (3) years from the date first set forth above, to allow for appropriate sizing and establishment of operational protocols for the NEW SHELTER. If a new city elects to participate in the OCAC SERVICES program after the three (3) year period indicated above, and COUNTY elects to provide SERVICES to such city, such city will be required to pay a pro rata portion of the MAXIMUM CONSTRUCTION COSTS based on the formula set forth in Exhibit D. Any new participating cities' contributions pursuant to this section will be applied first toward any necessary expansion of the NEW SHELTER and the remainder will be deposited into a shelter maintenance and repair fund (the "SHELTER MAINTENANCE FUND"). COUNTY shall establish a separate project fund account for all funds allocable to the SHELTER MAINTENANCE FUND and shall not commingle any other funds in said account. It is the intention of the PARTIES that any funds contained in the SHELTER MAINTENANCE FUND be exhausted prior to any additional contributions by the PARTIES toward post-construction shelter upgrades or capital improvements. Prior to contracting to provide SERVICES to a new city, COUNTY shall consult with those CITIES then currently contracting with COUNTY to receive SERVICES pursuant to a SERVICES AGREEMENT. COUNTY shall in good faith consider the input of those cities in making COUNTY'S determination as to whether to provide SERVICES to the proposed new city. Nevertheless, COUNTY is not bound to follow the recommendations of those cities and the ultimate determination as to whether to provide SERVICES to the proposed city rests entirely with COUNTY.
4. NEW SHELTER Account; Deposit of Funds. Upon the execution of this AGREEMENT, COUNTY shall establish a separate capital project fund account for all funds of the PARTIES which are to be applied toward ACTUAL CONSTRUCTION COSTS for the NEW SHELTER (the "NEW SHELTER ACCOUNT") and shall not commingle any other funds in said account. Funds payable by any CITY as an additional cost imposed due to late payment, or that are allocable to COUNTY to reimburse COUNTY for any COUNTY funds spent on ACTUAL CONSTRUCTION COSTS beyond the \$5,000,000 provided for above, or that are to reimburse COUNTY for the lost value over time of the money paid by COUNTY toward ACTUAL CONSTRUCTION COSTS beyond the \$5,000,000 provided for above, shall not be paid into the NEW SHELTER ACCOUNT but shall be paid directly to COUNTY for COUNTY'S sole use.
5. Allocation of Excess Funds. Upon final completion of the NEW SHELTER, issuance of a certificate of occupancy, payment of all ACTUAL CONSTRUCTION COSTS, and payment of all amounts due pursuant to this AGREEMENT, any unused funds remaining in

the NEW SHELTER ACCOUNT, but not exceeding an amount equal to the difference between total ACTUAL CONSTRUCTION COSTS incurred and MAXIMUM CONSTRUCTION COSTS, shall be credited to those CITIES then obtaining SERVICES from COUNTY against future charges under each such CITY'S SERVICES AGREEMENT based on the same percentages that each such CITY paid of the CITIES' SHARE OF MAXIMUM CONSTRUCTION COSTS. Any funds not distributed in accordance with the previous sentence shall be deposited into the SHELTER MAINTENANCE FUND.

6. Operational Commitment. Concurrent with the execution of this AGREEMENT, each CITY shall enter into a new, amended SERVICES AGREEMENT with COUNTY in the form attached hereto as Exhibit F (the "AMENDED SERVICES AGREEMENT"). The operational cost for SERVICES owing pursuant to the AMENDED SERVICES AGREEMENTS, calculated with respect to each CITY and unincorporated COUNTY area, shall include, together with all other annual costs of operation of OCAC, all rental costs, if any, under the Ground Lease to be entered into between COUNTY and SOCCCD pursuant to the LETTER OF INTENT. All PARTIES acknowledge that the division of all operational costs among the PARTIES allows for costs efficiencies and operational savings to each PARTY and that each PARTY has entered into this AGREEMENT and its AMENDED SERVICES AGREEMENT in reliance on such shared costs and resulting savings. Each CITY, to provide assurance of such continued cost efficiencies to each remaining PARTY, hereby expresses its commitment to procure SERVICES from COUNTY for a period of 10 years and acknowledges the financial burden that any breach of this commitment would have on all other PARTIES. To that end the AMENDED SERVICES AGREEMENTS shall each provide for a 10 year term of service.

7. Defaults and Remedies.

7.1. **Defaults.** The failure by any PARTY to perform any of its obligations set forth in this AGREEMENT shall constitute a default of this AGREEMENT. Except as required to protect against further damages, the nondefaulting PARTY may not institute legal proceedings against the PARTY in default until the nondefaulting PARTY has provided the defaulting PARTY notice of the default and the following applicable cure period has expired: (i) the cure period for any monetary default shall be fifteen (15) calendar days after the defaulting PARTY'S receipt of written notice from the nondefaulting PARTY that such obligation was not performed; and (ii) the cure period for any other default shall be thirty (30) days

after the defaulting PARTY'S receipt of written notice from the nondefaulting PARTY that such obligation was not performed.

7.2. Remedies Upon Default. Upon the occurrence of any default and after the defaulting PARTY has received written notice of default and the time period to cure the default has expired, the nondefaulting PARTY may at its option pursue damages or specific performance or other legal and equitable remedies the injured PARTY may have against the defaulting PARTY in accordance with applicable law. Should any CITY fail to pay any payment due by that CITY hereunder, COUNTY may take any action as is appropriate to obtain such payment. Nothing herein shall be construed as COUNTY'S exclusive remedy for the remediation of default by a CITY or CITIES, and COUNTY reserves the right to pursue any and all available rights and remedies at law or in equity.

7.3. Non-refund of Contributions. The payments made by all PARTIES pursuant to this AGREEMENT shall be used for completion and maintenance of the NEW SHELTER in the manner described herein and all PARTIES acknowledge and agree that the completion and maintenance of the NEW SHELTER, as well as the completion of each phase of construction activity and each construction milestone under the CONSTRUCTION CONTRACT, provides an immediate benefit to each PARTY and that no payments made pursuant to this AGREEMENT shall be refunded for any reason other than pursuant to the last sentence of Section 8.1.a.

8. Results of Nonpayment by any CITY.

8.1. Adjustment of Payments Upon Nonpayment:

a) All PARTIES acknowledge that the failure of any CITY to pay any amount hereunder will result in an increase in the operational costs of sheltering SERVICES to be divided among all other CITIES. To that end, in the event any CITY fails to pay, for any other reason, any amount to be paid by that CITY under this AGREEMENT, within fifteen (15) days of when such payment is due, the amount of such nonpayment will be apportioned among the remaining CITIES such that the remaining CITIES' will be responsible to pay such unpaid amount. The amounts paid by the remaining CITIES pursuant to this section will be applied in the following order: first to replenish any COUNTY funds spent on ACTUAL CONSTRUCTION COSTS that would have been paid by funds owed by the nonpaying CITY, second to pay any other amounts due to COUNTY by the nonpaying CITY pursuant to this AGREEMENT, and the

remainder to pay ACTUAL CONSTRUCTION COSTS as they come due. Should the non-paying CITY pay any portion of the amount owing, the increased cost paid pursuant to this subsection by the remaining CITIES will be reimbursed to the extent of the amount of such repayment. This section shall apply to each payment obligation owed and not paid by any CITY as it becomes due and payable and shall not result in any acceleration of the full amount payable by the nonpaying CITY over the term of this AGREEMENT. In the event any CITY should default in its obligations under this AGREEMENT and no longer obtain sheltering SERVICES from COUNTY, COUNTY shall consult with all CITIES then obtaining SERVICES from COUNTY to discuss methods of cost reduction that may be made available as a result of such reduction in sheltering SERVICES usage.

b) It is the intention of all PARTIES that no funds provided by any PARTY under this AGREEMENT shall be reimbursed for any other reason than that set forth in the last sentence of the foregoing subsection (a). If, pursuant to judicial action or threat thereof, any funds are reimbursed under this AGREEMENT to any CITY, other than pursuant to the last sentence of the foregoing subsection (a), the remaining CITIES' will be responsible to pay to the COUNTY the reimbursed amount.

c) Each CITY's proportional share of any amounts required to be paid by CITIES pursuant to this section shall be determined based on the formula set forth on Exhibit D. Each CITY'S resulting incremental increase in contribution will be due within thirty (30) days of notification by the COUNTY to the participating CITIES of the increased amount owing. The obligation of CITIES to pay increased amounts under this Section 8 is not intended to be an exclusive remedy. COUNTY reserves the right to take any action as is appropriate to obtain payment from any non-paying CITY. Additionally, each CITY paying increased costs pursuant to this Section 8, shall have and retain the right to take any action at law or equity as is appropriate to obtain reimbursement of such increased payment amounts from the non-paying CITY.

8.2. Impact of Nonpayment upon SERVICES AGREEMENT. In the event any CITY fails to pay, for any reason, any amount to be paid by that CITY under this AGREEMENT, such failure shall constitute a default under the nonpaying CITY's SERVICES AGREEMENT and COUNTY shall have

the right to immediately terminate such SERVICES AGREEMENT, at its discretion.

9. Status of COUNTY as Independent Contractor. COUNTY is, and shall at all times be deemed to be, an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between any CITY and COUNTY or any of COUNTY's agents or employees. COUNTY shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by COUNTY pursuant to this Agreement. COUNTY, its agents and employees shall not be considered to be CITY employees.
10. Governing Law and Venue. This AGREEMENT has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this AGREEMENT, the sole and exclusive venue shall be a court of competent jurisdiction, located in Orange County, California, and the PARTIES hereto agree to and hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the PARTIES specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
11. Term and Termination: This AGREEMENT shall be effective from the date first set forth above until each PARTY has made the last payment required under this AGREEMENT, provided that the rights granted with respect to the option created pursuant to Section 1.6 shall continue in accordance with the terms of Section 1.6.
12. Amendments/Entire Agreement: Amendments to this AGREEMENT must be in writing and approved by the governing body of each PARTY. This AGREEMENT is the entire agreement among the parties with respect to the construction of the NEW SHELTER and it supersedes any prior written or oral agreements with respect to the subject. Any and all exhibits that may be referred to in this AGREEMENT are by such references incorporated in this AGREEMENT and made a part hereof.
13. Severability. If any provision of this AGREEMENT, or the application thereof, to any extent, is held by a court of competent jurisdiction to be invalid, void or unenforceable, such provision, to the extent it is valid and enforceable, and all other remaining provisions hereof shall remain in full force and effect, to the fullest extent possible, and shall in no way be affected, impaired or invalidated thereby to the extent such provisions are not rendered impractical to perform taking into consideration the purposes of this

AGREEMENT.

14. Attorney's Fees. In any action or proceeding to enforce or interpret any provision of this AGREEMENT, or where any provision hereof is validly asserted as a defense, each PARTY shall bear its own attorney's fees, costs and expenses.
15. Interpretation. This AGREEMENT has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this AGREEMENT. In addition, each PARTY has been represented by experienced and knowledgeable independent legal counsel of its own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each PARTY further acknowledges that it has not been influenced to any extent whatsoever in executing this AGREEMENT by the other PARTIES hereto or by any person representing the other PARTIES, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this AGREEMENT against the PARTY that has drafted it is not applicable and is waived. The provisions of this AGREEMENT shall be interpreted in a reasonable manner to affect the purpose of the PARTIES and this AGREEMENT.
16. Consent to Breach Not Waiver. No term or provision of this AGREEMENT shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the PARTY claimed to have waived or consented. Any consent by any PARTY to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
17. Authority. The PARTIES to this AGREEMENT represent and warrant that this AGREEMENT has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
18. Hold Harmless. Each CITY shall hold harmless, indemnify, and defend COUNTY, its officers, employees, and agents from and against any and all claims, suits, or actions of every kind brought for or on account of injuries to or death of any person or damage to any property of any kind whatsoever and to whomsoever belonging which arise out of such CITY'S failure to fulfill any payment obligations of such CITY arising pursuant to this AGREEMENT. COUNTY shall hold harmless, indemnify, and defend each CITY, its officers, employees, and agents from and against any and all claims, suits, or actions of every kind brought for or on account of injuries to or death of any person or damage to any property of any kind whatsoever and to whomsoever belonging which

arise out of the performance or nonperformance of COUNTY's covenants and obligations under this AGREEMENT and which result from the actively negligent or wrongful acts of COUNTY or its officers, employees, or agents. This provision requiring COUNTY to hold harmless, indemnify, and defend each CITY shall expressly not apply to claims, losses, liabilities, or damages arising from actions or omissions, negligent or otherwise, of any independent contractor providing services pursuant to a contract with the COUNTY. In the event of concurrent negligence of the COUNTY, its officers, or employees, and any CITY, its officers and employees, then the liability for any and all claims for injuries or damages to persons and/or property or any other loss or cost which arises out of the terms, conditions, covenants or responsibilities of this AGREEMENT shall be apportioned in any dispute or litigation according to the California theory of comparative negligence.

19. Appropriations. During the term of this AGREEMENT, for each fiscal year, each CITY shall make every effort to adopt all necessary budgets and make all necessary appropriations for all payments due hereunder. The covenant contained in this Section 19 shall be deemed to be, and shall be construed to be, contingent upon the continuing offer by COUNTY to provide SERVICES and use of SHELTERS to each individual CITY. To the extent COUNTY offers the provision of SERVICES and use of any SHELTERS to any CITY, the continued responsibility of such CITY to make all payments required hereunder shall be a duty imposed by law and it shall be the duty of each and every public official of each CITY to take such actions and do such things as are required by law in performance of the official duty of such officials to enable the CITY to carry out and perform the covenants contained in this Section 19. All PARTIES acknowledge that the construction, maintenance and availability of SHELTERS for the provision of services to all PARTIES and the division of the costs of constructing and maintaining such SHELTERS among the PARTIES allows for costs efficiencies and significant savings to each PARTY and that each PARTY has entered into this AGREEMENT and its SERVICES AGREEMENT in reliance on such shared costs and resulting savings. Each PARTY, to provide assurance of such cost efficiencies to each remaining PARTY, hereby expresses its commitment to fulfill its stated obligations under this AGREEMENT regardless of the term of the AGREEMENT overlapping more than one fiscal year and acknowledges the financial burden that any breach of the terms of this AGREEMENT will have on all other PARTIES.
20. Assignability. Except as otherwise expressly provided for herein, no PARTY shall assign any of its obligations or rights hereunder without the consent of all other PARTIES.
21. Execution in Counterpart. This AGREEMENT may be executed in counterparts, each of

which, when the PARTIES hereto have signed this AGREEMENT, shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

22. Notices. Any notices required to be given pursuant to this AGREEMENT shall be given in writing and shall be mailed to all PARTIES to the AGREEMENT, as follows [to be completed prior to execution]:

To CITY:

To COUNTY:

IN WITNESS WHEREOF, the Board of Supervisors of the COUNTY OF ORANGE has authorized and directed the Chairman of the Board of Supervisors to execute this Agreement for and on behalf of the COUNTY, and [Participating cities subject to change] the CITIES of ANAHEIM, BREA, CYPRESS, FOUNTAIN VALLEY, FULLERTON, GARDEN GROVE, HUNTINGTON BEACH, LAGUNA HILLS, LAKE FOREST, ORANGE, PLACENTIA, RANCHO SANTA MARGARITA, SAN JUAN CAPISTRANO, STANTON, TUSTIN, VILLA PARK, and YORBA LINDA have caused this AGREEMENT to be subscribed by each of their duly authorized officers and attested by their Clerks.

DATE: _____

COUNTY OF ORANGE

Clerk of the Board

By: _____

[The final agreement will contain appropriate signature blocks for participating CITIES. Following are simply examples of possible participants.]

DATE: _____

CITY OF ANAHEIM

City Clerk

By: _____

DATE: _____

City Clerk

CITY OF BREA

By: _____

DATE: _____

City Clerk

CITY OF FOUNTAIN VALLEY

By: _____

DATE: _____

City Clerk

CITY OF FULLERTON

By: _____

DATE: _____

City Clerk

CITY OF GARDEN GROVE

By: _____

DATE: _____

City Clerk

CITY OF HUNTINGTON
BEACH

By: _____

DATE: _____

City Clerk

CITY OF LAGUNA HILLS

By: _____

DATE: _____

City Clerk

CITY OF LAKE FOREST

By: _____

DATE: _____

CITY OF ORANGE

City Clerk

By: _____

DATE: _____

CITY OF PLACENTIA

City Clerk

By: _____

DATE: _____

CITY OF RANCHO SANTA
MARGARITA

City Clerk

By: _____

DATE: _____

CITY OF SAN JUAN
CAPISTRANO

City Clerk

By: _____

DATE: _____

CITY OF STANTON

City Clerk

By: _____

DATE: _____

CITY OF TUSTIN

City Clerk

By: _____

DATE: _____

CITY OF VILLA PARK

City Clerk

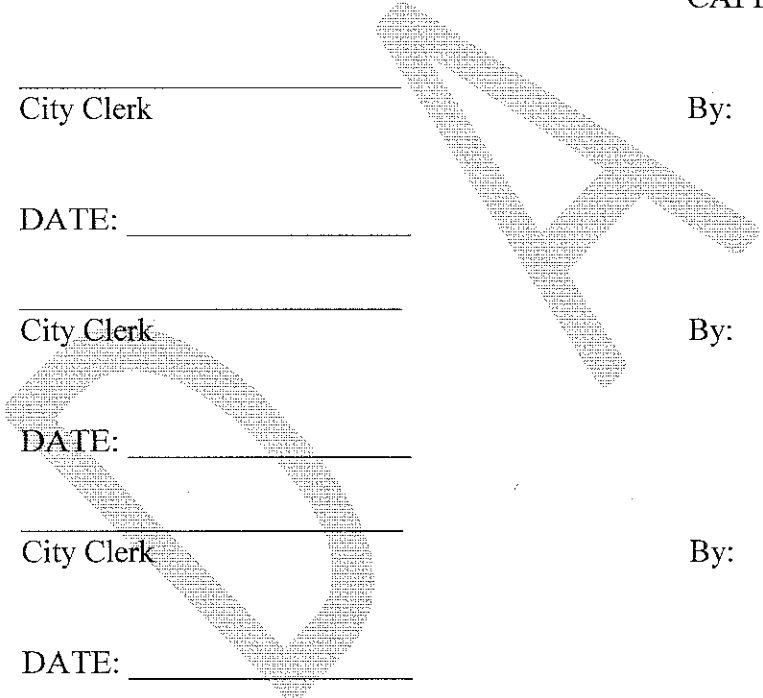
By: _____

DATE: _____

CITY OF YORBA LINDA

City Clerk

By: _____



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REFERENCED CONTRACT PROVISIONS

Term: «START_DATE» through «END_DATE»

Notices to COUNTY and CITY:

COUNTY: County of Orange
OC Community Resources
Director's Office
1770 North Broadway
Santa Ana, CA 92706-2642

and

County of Orange
OC Community Resources
OC Animal Care Director
561 The City Drive South
Orange, CA 92868

CITY: «CONTACT»
«JOB_TITLE»
City of «COMPANY2»
«ADDRESS1»
«CITY_STATE_ZIP»

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I. ALTERATION OF TERMS

This Agreement, together with Exhibit A and B, attached hereto and incorporated herein by reference, fully expresses all understanding of COUNTY and CITY with respect to the subject matter of this Agreement, and shall constitute the total Agreement between the parties for these purposes. No addition to, or alteration of, the terms of this Agreement, whether written or verbal, shall be valid unless made in writing and formally approved and executed by both COUNTY and CITY. This Agreement supersedes any and all previous agreements between the parties relating to the subject matter hereof.

II. INDEMNIFICATION AND INSURANCE

A. CITY agrees to indemnify, defend and hold COUNTY, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any claims, demands, including defense costs, or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by CITY pursuant to this Agreement. If judgment is entered against CITY and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CITY and COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

B. COUNTY agrees to indemnify, defend and hold CITY, its elected and appointed officers, employees, agents, directors, members, shareholders and/or affiliates harmless from any claims, demands, including defense costs, or liability of any kind or nature, including but not limited to, personal injury or property damage, arising from or related to the services, products or other performance provided by COUNTY pursuant to this Agreement. If judgment is entered against COUNTY and CITY by a court of competent jurisdiction because of the concurrent active negligence of CITY, COUNTY and CITY agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

C. Each party agrees to provide the indemnifying party with written notification of any claim related to services provided by either party pursuant to this Agreement within thirty (30) calendar days of notice thereof, and in the event the indemnifying party is subsequently named party to the litigation, each party shall cooperate with the indemnifying party in its defense.

D. Without limiting CITY's indemnification, CITY warrants that it is self-insured or shall maintain in force at all times during the term of this Agreement, the policy or policies of insurance covering its operations, placed with reputable insurance companies. Upon request by ADMINISTRATOR, CITY shall provide evidence of such insurance.

E. Without limiting COUNTY's indemnification, COUNTY warrants that it is self-insured or shall maintain in force at all times during the term of this Agreement, the policy or policies of insurance covering its operations, placed with reputable insurance companies. Upon request by CITY, COUNTY

shall provide evidence of such insurance.

III. NOTICES

A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements authorized or required by this Agreement shall be effective:

1. When written and deposited in the United States mail, first class postage prepaid and addressed as specified on Page 3 of this Agreement or otherwise directed by ADMINISTRATOR or CITY;
2. When FAXed, transmission confirmed;
3. When sent by electronic mail; or
4. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or other expedited delivery service.

B. Termination Notices shall be addressed as specified on Page 3 of this Agreement or as otherwise directed by ADMINISTRATOR or CITY and shall be effective when FAXed, transmission confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or other expedited delivery service.

C. Each party shall notify the other party, in writing, within twenty-four (24) hours of becoming aware of any occurrence of a serious nature, which may expose either party to liability. Such occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or damage to any COUNTY property in possession of CITY.

D. For purposes of this Agreement, any notice to be provided by COUNTY may be given by ADMINISTRATOR.

IV. SEVERABILITY

If a court of competent jurisdiction declares any provision of this Agreement or application thereof to any person or circumstances to be invalid or if any provision of this Agreement contravenes any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement or the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain in full force and effect, and to that extent the provisions of this Agreement are severable.

V. STATUS OF THE PARTIES

Each party is, and shall at all times be deemed to be, an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Agreement. Each party is entirely responsible for compensating staff and consultants employed by that party. This Agreement shall not be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and CITY or any of either party's employees, agents, consultants, or subcontractors. Each party assumes exclusively the responsibility for the acts of its employees, agents, consultants, or subcontractors as they relate to the services to be provided during the

course and scope of their employment. Each party, its agents, employees, or subcontractors, shall not be entitled to any rights or privileges of the other party's employees and shall not be considered in any manner to be employees of the other party.

VI. TERM

A. The term of this Agreement shall commence as specified on Page 3 of this Agreement.

B. This Agreement shall be effective for the full ten (10) year term specified on Page 3 of this Agreement, provided no notice of termination has been given by COUNTY in accordance with the Termination paragraph of this Agreement.

VII. TERMINATION

A. COUNTY may terminate this Agreement immediately upon default by CITY of its obligations hereunder or under that Participation Agreement entered into, in the year 2016, between CITY, COUNTY, and all other cities then contracting for Animal Care Services with COUNTY, for the purpose of allocating the increased costs of Animal Care Services resulting from the construction of a new animal shelter.

B. Upon termination, both parties shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

C. Any obligation of COUNTY under this Agreement is contingent upon the inclusion of sufficient funding for the services hereunder in the applicable budgets approved by the Board of Supervisors. In the event such funding is subsequently reduced or terminated, COUNTY may terminate this Agreement upon thirty (30) calendar days written notice given to CITY. Any obligation of CITY under this Agreement is contingent on COUNTY making available to CITY the continued use of Animal Care Services pursuant to the terms hereof. CITY acknowledges that other local cities have or will enter into similar agreements with the COUNTY to provide Animal Care Services for a period of ten (10) years, that the sharing of costs among the COUNTY and all contracting cities allows for costs efficiencies and operational savings to COUNTY and each contracting city, and that COUNTY and each contracting city have entered into their Services Agreements in reliance on such shared costs and resulting savings. CITY further acknowledges that the refusal of CITY to fulfill its obligations under this Agreement would increase the financial burden of services on COUNTY and all remaining contracting cities. CITY therefore agrees that it will fulfill its obligations hereunder and acknowledges that COUNTY and the other cities acquiring Animal Care Services from COUNTY are relying on CITY'S stated agreement, and the sharing of costs with CITY, in electing to acquire similar services.

VIII. THIRD PARTY BENEFICIARY

Except to the extent provided for in Section VII above with respect to other contracting cities,

neither party hereto intends that this Agreement shall create rights hereunder in third parties including, but not limited to, any subcontractors or any clients provided services hereunder.

IX. WAIVER OF DEFAULT OR BREACH

Waiver of any default shall not be considered a waiver of any subsequent default. Waiver of any breach of any provision of this Agreement shall not be considered a waiver of any subsequent breach. Waiver of any default or any breach shall not be considered a modification of the terms of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement, in the County of Orange, State of California.

CITY OF «COMPANY» «MUNI_CORP»

BY: _____ DATED: _____
«TITLE1»

ATTEST:
 BY: _____ DATED: _____
CITY CLERK

APPROVED AS TO FORM:
 BY: _____ DATED: _____
CITY ATTORNEY

COUNTY OF ORANGE
 BY: _____ DATED: _____

TITLE: _____

APPROVED AS TO FORM:
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

BY: _____

DEPUTY

DATED: _____

DRAFT

EXHIBIT A
TO AGREEMENT FOR PROVISION OF
OC ANIMAL CARE SERVICES
WITH
CITY OF «COMPANY»
«START_DATE» THROUGH «END_DATE»

I. DEFINITIONS

- A. "Actual Cost" means all COUNTY expenditures, including indirect charges, for providing Animal Care Services to CITY pursuant to this Agreement.
- B. "Animal Care Notice of Intent" means the document, signed by authorized representatives of COUNTY and CITY, which specifies all Animal Care Services COUNTY intends to provide to CITY, the estimated cost of the services, and the effective date.
- C. "Animal Care Service(s)" means one or more service to be provided by COUNTY to CITY, as specified, by category, in Paragraph II.B. of Exhibit A to this Agreement.
- D. "Fee Revenue" means revenue collected by COUNTY for Animal Care Services provided by COUNTY to CITY pursuant to this Agreement.
- E. "Fiscal Year" means a twelve (12)-month period from July through June.
- F. "Net Cost" means Actual Cost minus Fee Revenue.
- G. "Service Details" mean the activities performed by COUNTY within an Animal Care Service category.

II. SERVICES TO BE PROVIDED BY COUNTY

A. ANIMAL CARE NOTICE OF INTENT

1. Annually, by March 1, CITY shall identify which of the Animal Care Services, specified below in subparagraph II.B. of Exhibit A to this Agreement, CITY would like COUNTY to provide during the next Fiscal Year. CITY and COUNTY may agree to individualized levels of Service Details within the Animal Care Services selected. Requests for individualized levels of Service Details will only be considered by COUNTY if the resulting service level will not conflict with state or federal statutes and will not endanger public health.

2. Annually, by April 1, COUNTY shall prepare and send to CITY an Animal Care Notice of Intent which shall include, but not be limited to, a list of Animal Care Services, and individualized Service Details, if any, COUNTY agrees to provide, estimated costs for said services, and the start date for those services. COUNTY shall provide the Animal Care Services specified in the Animal Care Notice of Intent signed by both ADMINISTRATOR or designee, and an authorized representative of CITY.

3. Upon mutual agreement of CITY and COUNTY, COUNTY may prepare a new or amended Animal Care Notice of Intent at any time, may change due dates specified in subparagraph II.A.1. and II.A.2. of Exhibit A to this Agreement, and may modify the format of the Animal Care Notice of Intent attached to this Agreement as Exhibit B.

B. ANIMAL CARE SERVICES – COUNTY provides the following seven (7) categories of Animal Care Services. Each category of service includes Service Details which may be added or changed by ADMINISTRATOR upon six (6) months prior notification to CITY. COUNTY shall provide to CITY the Animal Care Services specified on the most current, Animal Care Notice of Intent for the Fiscal Year, signed in accordance with subparagraph II.A.2. of this Exhibit A to the Agreement.

1. ANIMAL CONTROL SERVICES – Animal Control Services include, but are not limited to, emergency response service; patrolling; impounding of stray animals and of owner-released animals; animal cruelty investigations; animal bite investigations; citation issuance; field release to owner and impound fee collection for impounded animals; quarantine activities including home checks of animals involved in bites; site inspections required to comply with vicious dog ordinances; emergency transportation of injured, impounded animals to a veterinarian; impounding of deceased animals for disposal; responses to requests for assistance from law enforcement and CITY officials regarding suspected criminal activities or zoning violations related to animals; advice to residents regarding wildlife management or other animal concerns, not to include wildlife eradication or relocation services; injured wildlife pick-up; animal license issuance and renewal, fee collection and payment services; customer support regarding animal licensing; animal license billing; and delinquent animal license follow-up; assistance to residents regarding potentially dangerous and/or vicious animals; impound data entry; and impound animal photography.

2. ANIMAL CARE SPECIAL SERVICES

a. Animal Care Special Services include, but are not limited to animal license issuance and renewal; fee collection and payment services; customer support regarding animal licensing; animal license billing; delinquent animal license follow-up; animal field canvassing to locate and license unlicensed animals; inspection of animal-related businesses in CITY jurisdiction in response to complaints and in accordance with COUNTY established inspection schedules; and when applicable, issuance of animal permits for private homes.

b. The number of hours of canvassing provided to CITY by COUNTY will be prorated based on available canvassing hours and CITY percentage of costs of Animal Care Services received by CITY during the previous Fiscal Year. At sole discretion of COUNTY, COUNTY may provide canvassing services to cities that did not receive canvassing services in the previous Fiscal Year. COUNTY may change its methodology for allocating canvassing hours upon six (6) months prior notification to cities.

3. ANIMAL CARE SHELTER SERVICES

a. Animal Care Shelter Services include, but are not limited to, retention of impounded

animals at COUNTY's Animal Care Shelter (Shelter), public display of animals to allow owner identification; contact of owners when animals are wearing identification; sale or release of impounded animals to residents; animal evaluation for adoption; reasonable effort toward animal placement; public education; volunteer services; rescue group coordination; euthanasia and disposal of animals that are neither redeemed nor adopted; veterinary services and spay/neuter surgeries consistent with standards established by the California Veterinary Medical Board; and necropsies on animals that die under suspicious circumstances or at the request of law enforcement.

b. CITY may request additional retention days for healthy, non-aggressive impounded animals. Additional retention days will be offered to CITY upon written approval by COUNTY's OC Community Resources Director, or designee, on a space available basis only.

c. COUNTY agrees to maintain its Shelter in a humane manner, consistent with applicable laws, keep said premises in a clean condition at all times, and use humane methods of care consistent with applicable laws.

d. No animals may be donated, sold or otherwise released for the purposes of experimentation, research or vivisection.

4. BARKING DOG COMPLAINT SERVICES – Barking Dog Compliant Services include, but are not limited to, receipt of barking dog complaints from residents, customer assistance regarding barking dog complaints, issuance of citations, and administrative hearings in response to complaints received by COUNTY for barking dogs within jurisdiction of CITY.

5. STANDARD LICENSING SERVICES – Standard Licensing Services include, but are not limited to, animal license issuance and renewal, fee collection and payment services; customer support regarding animal licensing; animal license billing; and delinquent animal license follow-up.

6. CITY LICENSE SERVICES

a. City License Services include, but are not limited to, issuance of CITY animal licenses at the time of adoption or redemption by owners. CITY shall provide CITY licensing tags to COUNTY. COUNTY shall provide quarterly licensing reports to CITY.

b. CITY shall make its best effort to provide updated animal licensing information to COUNTY.

7. ANIMAL IMPOUND SERVICES – Animal Impound Services include, but are not limited to, data entry of impound information for each live or deceased animal from CITY, impound animal photography for each live animal, owner notification of impounded animal, and posting of animal photographs on COUNTY website. COUNTY shall receive CITY animals at Shelter at times arranged by COUNTY.

C. COUNTY shall notify CITY of COUNTY's hours of operation for Animal Care Services. COUNTY may adjust hours of operation for Animal Care Services upon ninety (90) calendar days prior notification given to CITY.

D. Animals which are being retained for criminal prosecutions, except for violations of animal

control regulations and/or ordinances pursuant to this Agreement, are not to be construed as held pursuant to the services provided under this Agreement; housing will be provided at the discretion of COUNTY and at COUNTY's usual and customary charges for such housing.

E. To facilitate the performance of services, COUNTY shall have full cooperation and assistance from CITY, its officers, agents and employees.

III. PAYMENTS

A. BASIS FOR PAYMENT

1. CITY shall pay COUNTY the Net Cost of providing Animal Care Services specified in Animal Care Notice of Intent for CITY signed in accordance with subparagraph II.A. CITY Net Costs may include services/supplies procured but not yet delivered within the Fiscal Year.

2. The methodology for determining CITY's Actual Cost of Animal Care Services shall be provided to CITY annually in accordance with the Reports paragraph of this Agreement. CITY shall take all action necessary to ensure that Animal Care Services fees effective with respect to CITY are consistent with the most recent animal care services fees approved by the County of Orange Board of Supervisors (the "COUNTY FEES") which fee amounts will be charged for Animal Care Services within CITY's jurisdiction and shall be used in determining CITY's Actual Cost of Animal Care Services. If CITY wishes to charge fees which are different from the COUNTY FEES, CITY shall notify COUNTY of the applicable fee amounts to be charged for Animal Care Services within CITY's jurisdiction (the "CITY FEES") and the applicable CITY FEES will be charged for Animal Care Services within CITY's jurisdiction and shall be used in determining CITY's Actual Cost of Animal Care Services.

3. COUNTY shall record and retain all Fee Revenue derived from providing Animal Care Services to CITY. CITY's Fee Revenue shall be credited to CITY's Actual Cost of Animal Care Services. COUNTY shall have all fee collection powers of CITY and shall receive full cooperation from CITY to enable efficient enforcement of fee collection.

B. PAYMENT SCHEDULE

1. Each Fiscal Year, CITY shall pay COUNTY in arrears for the Net Cost of Animal Care Services provided in accordance with the following payment schedule. Billings are due from COUNTY to CITY within thirty (30) calendar days following the three-month Period specified below.

<u>Period</u>	<u>Billing Due</u>	<u>Payment Due</u>
July 1 through September 30	October 30	November 25
October 1 through December 31	January 30	February 25
January 1 through March 31	April 30	May 25
April 1 through June 30	July 30	August 25

2. If payment is not received by COUNTY by the payment due date specified above in subparagraph III.B. of Exhibit A to this Agreement, COUNTY may cease providing any further service under this Agreement and may satisfy the indebtedness in any manner prescribed by law.

3. COUNTY may modify the payment schedule upon six (6) months written notification to CITY.

IV. CITY MANAGERS ASSOCIATION ANIMAL CARE COMMITTEE

A subcommittee of the Orange County City Managers Association representing all cities participating in OCAC services exists to facilitate communication between OCAC and the city managers and staff of participating cities regarding financial and operational matters of OCAC, including, but not limited to: the assessment of cost options for animal care services provided under the Services Agreements; supplemental services or financial requests which result in a change to a participating city's Actual Cost; consideration of new or adjusted fees; and other Service Details which may arise during the course of the Agreement. COUNTY shall provide regular updates on operations to the City Managers Association Animal Care Committee and to a participating city upon request.

V. LAWS AND REGULATIONS

A. COUNTY shall comply with all applicable governmental laws, regulations, and requirements related to Animal Care Services, as they exist now or may be hereafter amended or changed and shall enforce federal and state statutes deemed applicable to CITY by COUNTY. Animal Care Services provided by COUNTY to CITY may be changed to comply with said laws, regulations, and requirements. ADMINISTRATOR will make its best efforts to notify CITY of changes that may impact Animal Care Services provided through this Agreement.

B. For each Animal Care Service that COUNTY agrees to provide to CITY in an Animal Care Notice of Intent, CITY shall enact and maintain in full force and effect ordinances identical to COUNTY ordinances which apply to said service, including but not limited to, those related to fees. ADMINISTRATOR shall notify CITY of the deadline for adopting said ordinances. If COUNTY is unable to enforce an animal care ordinance because of the limitations of a CITY ordinance or failure of CITY to adopt identical ordinances related to an Animal Care Service, COUNTY may suspend provision of one or all Animal Care Services to CITY or may terminate this Agreement. It is solely the responsibility of CITY to immediately notify COUNTY of any discrepancy between relevant ordinances maintained by CITY and those maintained by COUNTY.

D. If CITY wishes to maintain any relevant ordinance that is not consistent, on any point, with COUNTY ordinances, CITY shall immediately notify COUNTY of the discrepant ordinance. At the sole discretion of COUNTY, COUNTY may waive CITY enactment and maintenance of COUNTY animal care ordinances and may agree to enforce, and issue citations for violations pursuant to, the discrepant CITY ordinance. CITY acknowledges that individualized enforcement of unique CITY ordinances may result in increased costs to CITY.

E. CITY shall notify COUNTY of its intent to add, amend, or delete any CITY animal care ordinance at least ninety (90) calendar days in advance of its addition, amendment, or deletion.

F. CITY may request that specific ordinances adopted by CITY not be enforced in CITY by COUNTY. Requests for exclusion must be submitted in writing and received by COUNTY ninety (90) calendar days prior to the requested exclusion. Requests for exclusion will only be considered by COUNTY if they are not in conflict with state statutes and do not endanger public health. COUNTY shall notify CITY, in writing, of COUNTY's decision regarding the requested exclusion.

G. COUNTY's OC Community Resources Director, or designee, may provide assistance to CITY in defining the manner in which enforcement of a new or amended animal care ordinance would be provided by COUNTY. Requests for assistance must be made in writing and received by COUNTY ninety (90) calendar days prior to the requested implementation of the service. If the cost of such service can be delineated and accommodated by COUNTY, COUNTY will send an amended Animal Care Notice of Intent to CITY which will include reference to the CITY ordinance.

H. CITY will reimburse COUNTY for ordinance enforcement, as specified in the Payments Paragraph of this Agreement.

VI. REPORTS

A. Each Fiscal Year, COUNTY shall provide to CITY written, quarterly reports of Animal Care Services revenue and expenses for each period specified below. Said reports will be due to CITY within thirty (30) calendar days of the month following the reporting period, in accordance with the schedule below:

<u>Period</u>	<u>Reports Due</u>
July 1 through September 30	October 30
October 1 through December 31	January 30
January 1 through March 31	April 30
April 1 through June 30	July 30

B. Each Fiscal Year, COUNTY shall provide the following Animal Care Services reports to CITY by July 30:

1. A payment methodology report for Animal Care Services to be provided by COUNTY during the next Fiscal Year and
2. A Fiscal Year intake and outcome report.

C. COUNTY may change the due dates for reports specified in subparagraphs VI.A. and VI.B. above upon six (6) months written notification to CITY.

D. No less than once every three (3) years, COUNTY shall engage an external auditor to review CITY billings.

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EXHIBIT B
TO AGREEMENT FOR PROVISION OF
OC ANIMAL CARE SERVICES
WITH
CITY OF «COMPANY»
«START_DATE» THROUGH «END_DATE»

ANIMAL CARE NOTICE OF INTENT

This Animal Care Notice of Intent specifies Animal Care Services to be provided to CITY by COUNTY for the Period: «NOI_START» through «NOI_END». COUNTY agrees to provide to the City of «COMPANY2» the following Animal Care Services beginning «NOI_EFFECTIVE»:

- «SERVICE1»
- «SERVICE2»
- «SERVICE3»
- «SERVICE4»
- «SERVICE5»

The total estimated cost for Animal Care Services specified above is «TOTAL_COST_».

- This is a new Animal Care Notice of Intent for the Period indicated above.
- This is an Amendment to an existing Animal Care Notice of Intent for the Period indicated above.

Significant Changes Since the Previous Animal Care Notice of Intent:

To the best of my knowledge, this notice specifies the Animal Care Services to be provided by COUNTY.

City of «COMPANY2» Representative and Title	Date
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OC Animal Care Director	Date
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