

Contract number: CTN. HD. 14 \* 015  
Effective Date : 7-1-13  
Term Date : 6-30-15  
Cost : 7,448,648. -  
Revenue : 7,448,648. -  
Total : \_\_\_\_\_ NTE: \_\_\_\_\_  
Action : 4-1-15  
Renewal By : \_\_\_\_\_  
Term : 6-30-15  
Reviewed by: JS

## **BOARD OF SUPERVISORS AGENDA ITEM SUMMARY**

Requested Board Meeting Date: August 6, 2013

### **ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:**

This contract represents an estimated \$7,448,648 of revenue to the County over a two year period for services provided on behalf of the City of Tucson by Pima Animal Care Center (PACC), \$3,724,324 for FY14 and \$3,724,324 for FY15. Services provided by PACC include:

- Responding to calls for animal control services (about 20,500 per year);
- Issuing citations for violations of animal control ordinances (about 3,950 per year);
- Providing shelter and care for stray and unwanted animals (about 2,000 per year);
- Providing licensing services to ensure compliance with rabies control requirements (about 50,000 per year); and
- Education and Public Relations – media contacts and educational presentations

This contract replaces CTN 12\*0031 which was in effect for FY12 and FY13.

CONTRACT NUMBER (If applicable): CTN 14\*0015

**STAFF RECOMMENDATION(S): Approval**

CORPORATE HEADQUARTERS: PO Box 27210, Tucson, AZ

Page 1 of 2

To: CoB - 7-24-13  
Agenda 8-6-13  
(3)

Procure Dept 07/18/13 PM 09:33

CLERK OF BOARD USE ONLY: BOS MTG. \_\_\_\_\_

ITEM NO. \_\_\_\_\_

PIMA COUNTY COST: \_\_\_\_ and/or REVENUE TO PIMA COUNTY: \$ 7,448,648 over 2 yrs

FUNDING SOURCE(S): N/A

(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

**Advertised Public Hearing:**

		YES	X	NO
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**Board of Supervisors District:**

1		2		3		4		5		All	X
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**IMPACT:**

**IF APPROVED:** The PACC will continue to provide animal control and care services for the City of Tucson and receive up to \$3,724,324 in income to cover their expenses.

**IF DENIED:** The PACC will not be able to continue to provide animal control and care services for the City of Tucson and will lose about \$3,724,324 in annual income to cover their expenses.

DEPARTMENT NAME: Health

CONTACT PERSON: Ana Basurto TELEPHONE NO.: 243-7838

NO. CTN. HD. 14 00000 00000 00000 0 15

AMENDMENT NO. \_\_\_\_\_

This number must appear on all  
invoices, correspondence and  
documents pertaining to this  
contract.

This Intergovernmental Agreement (hereinafter "Agreement") is entered into pursuant to A.R.S. § 11-952 by and between the City of Tucson (hereinafter "the City"), a body politic and corporate of the State of Arizona and Pima County, (hereinafter "the County") a political subdivision of the State of Arizona.

- A.** The City desires to enter into an agreement with the County for the provision of animal control services within the geographical jurisdiction of the City relating to enforcement of the City Code Article I, Section 4-28 of Article II, Article III, and Article V of Chapter 4, and Section 16-31(b)(3) of Article IV of Chapter 16, (hereinafter City Animal Control Ordinances) as amended from time to time, and having to do with vaccination and dog licensing requirements, dog license fees, leash laws, intake of stray animals, animal cruelty and neglect, dangerous animals, diseased animals, biting animals, animal waste, and excessive noise; and
- B.** Pursuant to A.R.S. § 11-1013, the County operates the Pima Animal Care Center (the “Center”) for the intake and sheltering of stray animals; and
- C.** The County has the experience and expertise to enforce City Animal Control Ordinances, and is engaged in certain activities relating to vaccination and licensing activities, rabies control, stray animal intake; and
- D.** The City and the County may contract for services and enter into agreements with one another for joint and cooperative action pursuant to A.R.S. § 11 -95 1, et seq.

Exhibit D to Resolution No. 22022  
City of Tucson Contract No. 17766

## **AGREEMENT**

1. **Purpose.** The purpose of this Agreement is to set forth the responsibilities of the parties for the provision of animal control services within the geographical jurisdiction of the City relating to enforcement of the City Code Article I, Section 4-28 of Article II, Article III, and Article V of Chapter 4, and Section 16-31(b)(3) of Article IV of Chapter 16, (hereinafter City Animal Control Ordinances) as amended from time to time, and having to do with vaccination and dog licensing requirements, dog license fees, leash laws, intake of stray animals, animal cruelty and neglect, dangerous animals, diseased animals, biting animals, animal waste, and excessive noise.

2. **Effective Date; Term.** This Agreement is effective for a two-year period from July 1, 2013 through June 30, 2015.

3. The County Enforcement Agent, herein before designated by the Pima County Board of Supervisors to be Pima Animal Care, and all employees thereunder, shall be referred to as "City Enforcement Agents" for the purpose of this Agreement.

4. The City Enforcement Agents shall administer and enforce the provisions of the City Animal Control Ordinances and state and County law, and all services related thereunder, including amendments to said laws as may be passed from time to time.

5. The City Enforcement Agents are, pursuant to this Agreement, granted those limited police powers necessary from time to time to carry out duties imposed by this Agreement, together with any and all such further powers as may be necessary for such agents to engage in vaccination, licensing, seizure of stray, dangerous, neglected, diseased or abused animals, and other activities arising from their duties as City Enforcement Agents.

6. The City Attorney shall prosecute and the City Court shall handle criminal and civil matters arising out of the enforcement of the City Animal Control Ordinances, as amended, pursuant to this Agreement. All fines collected by the City Court as a result of enforcement of the City Animal Control Ordinances, as amended, shall be retained by City.

7. The City Enforcement Agents, acting under this Agreement, shall collect such fees as may be rendered applicable by the City Animal Control Ordinances. All fees collected by the City Enforcement Agents as a result of this Agreement shall be retained by City.

### **8. Scope of Services**

#### **a. Field Enforcement**

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1. Complete field services shall be provided by two full shifts of Animal Care Officers operating seven days per week, holidays included. Staff shall be available on an on-call basis overnight to respond to emergency calls for service.

2. The County shall provide staffing levels, materials, supplies, and equipment sufficient to ensure the provision of animal control services in the City in accordance with key measures of performance identified on Attachment 1.

3. Dead animal pickup services shall be provided during one shift operating seven days per week, holidays included.

b. Licensing

1. The Pima Animal Care Center shall maximize the number of dogs vaccinated and licensed within the geographical jurisdiction of the City. Dog vaccination requirements and spay/neutering information shall be distributed to all owners of licensed dogs and other interested parties upon request.

2. License applications shall be processed and returned, electronically or via mail, to the applicant within ten (10) working days. A licensing reminder program shall be conducted to improve compliance with license regulations.

3. Should Pima Animal Care Center consider outsourcing the licensing functions to take advantage of online registration via the Internet, Pima Animal Care Center shall ensure that day-to-day licensing and registration operations, including telephone services, remain equivalent to those currently provided by the Center.

c. Pima Animal Care Center

1. The County shall equip, furnish, and maintain the Pima Animal Care Center, and provide all vehicles, including replacements, maintenance, repair, gasoline, and oil as necessary for the operation of the Pima Animal Care Center.

2. Humane treatment of all animals housed at the Pima Animal Care Center shall be provided, including provision of adequate food, water, shelter, and timely and appropriate veterinary care to alleviate pain and suffering. Animals shall be euthanized in such a manner that provides for humane treatment of the animal and in accordance with the standards set forth by the Report of the American Veterinary Medical Association Panel on Euthanasia (2000). The Pima Animal Care Center shall develop a strategy to reduce euthanasia of adoptable animals. The Pima Animal Care Advisory Committee, through its regularly scheduled public meetings, shall advise the Animal Care Manager in the development of the above-mentioned plan. The plan shall be developed in accordance with best shelter management practices and in collaboration with the City.

3. Effort shall be made to increase the number of animals adopted into appropriate homes.

d. Education

The Pima Animal Care Center shall refine and increase educational efforts at schools, neighborhood association meetings, etc. in order to increase public awareness of health and safety issues related to animals, to promote responsible ownership/companion animal guardianship, including compliance with licensing and other City Animal Control Codes, and to disseminate information regarding vaccination clinics, spaying and neutering, and care of animals.

**9. Payment.** All payments received from constituents on behalf of the CITY will be deposited daily with the Pima County Treasurer's Office into a Fiduciary Agency Account (the City Account). The COUNTY will bill the CITY monthly for actual costs incurred on behalf of the CITY, and will instruct the Pima County Treasurer's Office to remit to CITY all revenues collected on behalf of the CITY on a monthly basis. During the month the revenue is collected, any interest earned on the Account shall be credited to the CITY. Invoices are due within thirty days of invoice date.

**10. Address Audit.** The COUNTY will perform an address audit to verify jurisdictional information on a quarterly basis. Any adjustments resulting from the audit will be processed quarterly as needed. If the outcome of the audit results in additional funds being due to CITY, the COUNTY shall notify the City in writing and shall transfer the additional funds to the CITY within ninety days following the end of the quarter. If the outcome of the audit results in additional expenditures allocated to the CITY, an invoice will be submitted to the CITY due and payable to the COUNTY within thirty days from the date of invoice.

**11. Financial Report Depicting Receipts and Disbursements of the County Rabies Fund and the Total Cost of Enforcing City Animal Control Ordinances.** The County shall prepare a financial report for each monthly invoice submitted to the City and a final financial report for each Fiscal Year that includes the following information for each County accounting period:

- a. By jurisdiction, a statement of period-end and year-to-date receipts, disbursements, and the balance of the County Rabies Control Fund.
- b. By jurisdiction, the percentage of administrative expenses allocated, the number and types of dog licenses issued, the number of calls that resulted in a response from the Pima Animal Care Center, the number of animals processed at the shelter, the number of animals adopted, the number of animals euthanized, the number of animals spayed and neutered, the number of dead animals picked up, the number of animals that died in the kennels and the number or educational event units performed.
- c. The total Pima County Animal Care adopted budget including operating revenues by revenue source and operating expenses by type of expense.

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**12. Legal Jurisdiction.** Nothing in this Agreement shall be construed as either limiting or extending the legal jurisdiction of the City or the County. This Agreement and all obligations upon the City or County arising therefrom shall be subject to any limitations of budget law or other applicable local law or regulations.

**13. Audit.** The City shall have the right to audit the books of the County relating to the Pima Animal Care Center and to the collection of licensing fees and other fines and fees, said fees and fines to be deposited in the County Rabies Control Fund and designated as City receipts, in accordance with A.R.S. § 11-1011.

**14. Termination.** Either party may terminate this Agreement by giving written notice to the other party not less than six (6) months prior to the termination date. In the event of termination, each party shall be liable for its proportionate share of the costs and expenses incurred or arising out of performance of activities required by this Agreement occurring prior to the termination date. Termination of this Agreement shall not relieve either party from liabilities or costs already incurred under this Agreement.

**15. Non-assignment.** Neither party to this Agreement shall assign its rights under this Agreement to any other party without written permission from the other party to this Agreement.

**16. Construction of Agreement.**

- a. Entire agreement. This instrument constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. Any exhibits to this Agreement are incorporated herein by this reference.
- b. ~~Amendment. This Agreement may be extended, modified, amended, altered, or~~  
changed only by written agreement signed by both parties.
- c. Construction and interpretation. All provisions of this Agreement shall be construed to be consistent with the intention of the parties as expressed in the Recitals hereof.
- d. Captions and headings. The headings used in this Agreement are for convenience only and are not intended to affect the meaning of any provision of this Agreement.
- e. Severability. In the event that any provision of this Agreement or the application thereof is declared invalid or void by statute or judicial decision, such action shall have no effect on other provisions and their application, which can be given effect without the invalid or void provision or application, and to this extent the provisions of the Agreement are severable. In the event that any provision of this Agreement is declared invalid or void, the parties agree to meet promptly upon request of the other party in an attempt to reach an agreement on a substitute provision.
- f. This Agreement is subject to the provisions of A.R.S. § 38-511.

**17. 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 City and any County employees or between the County and any City employees. Neither party shall be liable for any debts, accounts, obligations nor other liabilities whatsoever of the other,

including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

**18. No Third Party Beneficiaries.** Nothing in the provisions of 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 different from the standard of care imposed by law.

**19. Compliance with Laws.** 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.

- a. **Anti-Discrimination.** The provisions of A.R.S. § 41-1463, Executive Order Number 2009-09 issued by the Governor of the State of Arizona, and Tucson City Code §28-138 are incorporated by this reference as a part of this Agreement.
- b. **Americans with Disabilities Act.** This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
- c. **Workers' Compensation.** An employee of either party shall be deemed to be an "employee" of both public agencies, while performing pursuant to this Agreement, for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each party shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency, pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers' compensation.

**20. Waiver.** Waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed a waiver of any other term, covenant, or condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

**21. Force Majeure.** A party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so by reason of uncontrollable forces. The term "uncontrollable forces" shall mean, for the purpose of this Agreement, any cause beyond the control of the party affected, including but not limited to, failure of facilities, breakage or accident to machinery or transmission facilities, weather conditions, flood, earthquake, lightning, fire, epidemic, war, riot, civil disturbance, sabotage,



strike, lockout, labor dispute, boycott, material or energy shortage, casualty loss, acts of God, or action or non-action by governmental bodies in approving or failing to act upon applications for approvals or permits which are not due to the negligence or willful action of the parties, order of any government officer or court (excluding orders promulgated by the parties themselves), and declared local, state, or national emergency, which, by exercise of due diligence and foresight, such party could not reasonably have been expected to avoid. Either party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

**22. Notification.** All notices or demands upon any party to this Agreement shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

Pima County:  
Francisco Garcia, MD, MPH, Director  
Pima County Health Department  
3950 South Country Club Road  
Tucson, Arizona 85714

City of Tucson:  
Richard Miranda, City Manager  
City Hall Tower  
255 West Alameda Street, 10th Floor  
Tucson, Arizona 85701

Kim Janes  
Manager  
Pima Animal Care Center  
4000 North Silverbell  
Tucson, Arizona 85745

Marie Nemerguth, Director  
Budget and Internal Audit Program  
City Hall Tower  
255 West Alameda Street, 4<sup>th</sup> Floor  
Tucson, AZ 85701

**23. Remedies.** Either party may pursue any remedies provided by law for the breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or in equity or by virtue of this Agreement.

**24. Hold Harmless Clause.** Each party (as "indemnitor") agrees to indemnify, defend and hold harmless, the other party (as "indemnitee") 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 the bodily injury of any person (including death) or property damage, but only to the extent that such claims, which result in vicarious/derivative liability to the indemnitee, and are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

**25. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterpart may be removed from such counterpart and attached to a single instrument.

**IN WITNESS WHEREOF,** the County has caused this Agreement to be executed by the Chair of the Pima County Board of Supervisors, upon resolution of the Board of Supervisors,

attested to by the Clerk of the Board, and the City of Tucson has caused this Agreement to be executed by the Mayor of the City of Tucson, upon resolution of the Mayor and Council, attested to by the City Clerk.

\_\_\_\_\_  
Ramon Valadez, Chairman of the Board of Supervisors

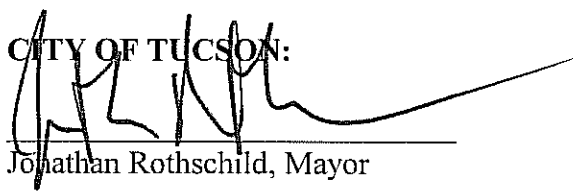
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Date

**ATTEST:**

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Date

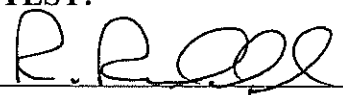
**CITY OF TUCSON:**

  
\_\_\_\_\_  
Jonathan Rothschild, Mayor

July 9, 2013

\_\_\_\_\_  
Date

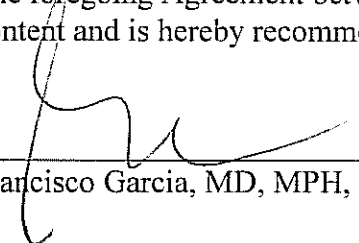
**ATTEST:**

  
\_\_\_\_\_  
City Clerk

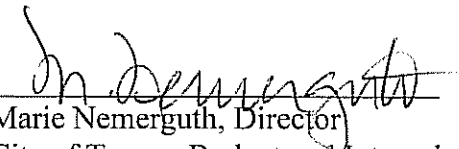
July 9, 2013

\_\_\_\_\_  
Date

The foregoing Agreement between Pima County and the City of Tucson has been approved as to content and is hereby recommended by the undersigned.

  
\_\_\_\_\_  
Francisco Garcia, MD, MPH, Director

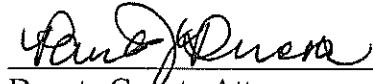
29 May 13  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Marie Nemerguth, Director  
City of Tucson Budget and Internal Audit

5-22-13  
\_\_\_\_\_  
Date

### ATTORNEY CERTIFICATION

The foregoing Agreement by and between Pima County and the City of Tucson has been reviewed pursuant to A.R.S. § 11-952 by the undersigned who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Agreement.

  
\_\_\_\_\_  
Deputy County Attorney

5.6.13  
\_\_\_\_\_  
Date

**CITY OF TUCSON:**

  
\_\_\_\_\_  
Principal Assistant City Attorney – Chief Deputy

6/20/13  
\_\_\_\_\_  
Date

## ANIMAL CARE PERFORMANCE MEASURES

	Accomplished Fiscal Year 2012	Estimated Fiscal Year 2013	Proposed Fiscal Years 2014 & 2015
<b>Respond to calls from the public and other agencies for animal control services.</b>			
Number of responses to calls to pick up loose animals.			
• City.....	7,163	7,858	7,858
Number of responses to calls regarding animal welfare or cruelty.			
• City.....	3,291	3,591	3,322
Number of responses to calls from owner for pick-up of live animals.			
• City.....	65	45	45
Number of responses to calls regarding animal waste violations.			
• City.....	286	288	288
Number of responses to calls regarding barking dogs.			
• City.....	1,321	1,356	1,356
Number of responses to dog bite complaints.			
• City.....	2,582	2,889	2,889
Number of responses to cat bite complaints.			
• City.....	297	398	398
Number of other responses.			
• City.....	4,138	3,490	4,383
Total Responses:			
• City.....	19,081	19,915	20,539
Enforcement Costs:			
• City.....	\$1,383,259	\$1,424,470	\$1,450,870
Average Cost per Response:			
• City.....	\$72.49	\$71.52	\$70.64
<b>Enforcement Activities</b>			
Issue citations for violations of animal control ordinances.			
Number of leash law citations			
• City.....	496	477	475
Number of non-licensed dog citations			
• City.....	1,445	1,179	1,200
Number of unvaccinated dog citations			
• City.....	937	828	800

**Enforcement Activities (Continued)****ANIMAL CARE PERFORMANCE MEASURES**

	<b>Accomplished Fiscal Year 2012</b>	<b>Estimated Fiscal Year 2013</b>	<b>Proposed Fiscal Years 2014 &amp; 2015</b>
Number of vicious dog citations			
• City.....	224	204	200
Number of cruelty/neglect citations			
• City.....	1,806	1,230	1,200
Number of other citations			
• City.....	143	51	75
Total Citations:			
• City.....	5,051	3,970	3,950

**Shelter Program**

Provide shelter and care for stray and unwanted animals.

Total Number of animals provided shelter			
• City.....	15,922	14,913	13,445
Number of animals redeemed			
• City.....	1,068	1,073	1,110
Number of animals adopted			
• City.....	4,791	5,004	5,200
Number of animals euthanized			
• City.....	7,391	6,132	5,100
Other			
• City.....	2,672	2,703	2,035

**Licensing Services**

Provide licensing services to ensure compliances with rabies control requirements.

Number of altered dogs licensed			
• City.....	42,243	41,789	45,000
Number of unaltered dogs licensed			
• City.....	3,643	3,780	3,500
Number of other dog licenses			
• City.....	1,471	1,192	1,200
Total Licenses:			
• City.....	47,357	46,761	49,700

**Education and Public Relations**

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Provide public presentations:			
• Number of media contacts	68	90	120
• Number of educational presentations	61	123	125

ADOPTED BY THE  
MAYOR AND COUNCIL

July 9, 2013

RESOLUTION NO. 22022

RELATING TO OUTSIDE AGENCY ACTIVITIES; AUTHORIZING AND APPROVING THE FINANCIAL PARTICIPATION AGREEMENTS BETWEEN THE CITY OF TUCSON AND VARIOUS OUTSIDE AGENCIES AND AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF TUCSON AND PIMA COUNTY FOR ANIMAL CARE AND ENFORCEMENT SERVICES FOR FISCAL YEAR 2014; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. The Financial Participation Agreement, attached hereto as Exhibit A, for financial participation for FY 2014 with Pima Association of Governments, in the amount of \$298,000, is approved.

SECTION 2. The Financial Participation Agreement, attached hereto as Exhibit B, for financial participation for FY 2014 with the Tucson Community Cable Corporation (Access Tucson), in the amount of \$303,500, is approved.

SECTION 3. The Financial Participation Agreement, attached hereto as Exhibit C, for financial participation for FY 2014 with the Tucson-Pima Arts Council, in the amount of \$401,660, is approved.

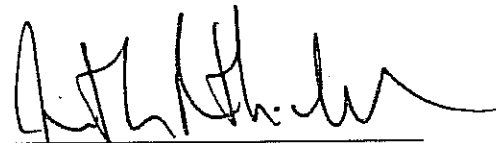
SECTION 4. The Intergovernmental Agreement with Pima County for Animal Care and Enforcement Services, attached hereto as Exhibit D, is approved.

SECTION 5. Upon written approval of the City Attorney as to the form of the Agreements and upon the execution of the Agreements by the Agencies named therein, the Mayor is authorized and directed to execute the documents on behalf of the City of Tucson, and the City Clerk is authorized and directed to attest the same.

SECTION 6. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Resolution.

SECTION 7. WHEREAS, it is necessary for the preservation for the peace, health and safety of the City of Tucson that this Resolution become immediately effective, an emergency is hereby declared to exist, and this Resolution shall be effective immediately upon its passage and adoption.

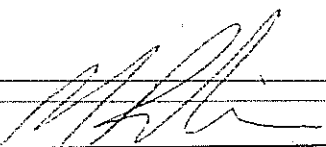
PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, July 9, 2013.

  
MAYOR

ATTEST

  
CITY CLERK

APPROVED AS TO FORM:

  
CITY ATTORNEY

REVIEWED BY:

  
CITY MANAGER

DLD:mgs