

AGREEMENT FOR ANIMAL CONTROL SERVICES

between

COUNTY OF SANTA BARBARA

and

CITY OF SANTA BARBARA

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and the City of Santa Barbara a charter city within Santa Barbara County (hereafter CITY) wherein COUNTY agrees to provide and CITY agrees to accept the services specified herein.

WHEREAS, CITY, mindful of its duties and responsibilities to protect and maintain the public health, safety, and welfare of its citizens, finds it necessary to regulate and control the enforcement of Animal Control Ordinances within the CITY, and

WHEREAS, CITY provides, as allowed by CITY ordinance and State law, its own field animal control services for the incorporated area of the CITY and has determined that the best interest of the CITY would be served by having the impound, sheltering and other services herein described, provided by the COUNTY; and

WHEREAS, pursuant to Section 101400 of the Health and Safety Code, COUNTY and CITY may contract for the performance by COUNTY employees for any or all functions relating to and in connection with the enforcement of local health and sanitation laws.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DEFINITIONS.**

For the purpose of this Agreement, the following terms shall have the meaning as set forth below:

1.1. IMPOUND: Taking physical custody of an animal that will be taken to the COUNTY Animal Shelter or relocated.

1.2. SHELTER BOARDING: Providing food, water and housing for an impounded animal, and the cleaning and disinfecting of such housing.

1.3. EUTHANASIA – DOG: The humane destruction of a dog by lethal injection.

1.4. EUTHANASIA – CAT: The humane destruction of a cat by lethal injection.

1.5. EUTHANASIA – OTHER: The humane destruction of an animal other than a dog or cat by lethal injection.

1.6. DEAD ANIMAL DISPOSAL: Disposing of all dead animals brought to the COUNTY Animal Shelter by CITY staff or a resident of Santa Barbara.

1.7. RABIES SPECIMEN TESTING: Deceased animal specimens submitted by CITY to COUNTY for the purpose of rabies testing. Brain specimen will be extracted by COUNTY staff and testing conducted by the Public Health Laboratory.

2. DESIGNATED REPRESENTATIVE.

Jan E. Glick, Director of Animal Services, is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Cpt. Gil Torres is the authorized representative for CITY. Changes in designated representatives shall be made only after advance written notice to the other party.

3. NOTICES.

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, delivered as follows:

To COUNTY: Jan E. Glick, MS
 Director of Animal Services
 5473 Overpass Road
 Santa Barbara, CA 93111

To CITY: Cpt. Gil Torres
 Santa Barbara Police Dept.
 City of Santa Barbara
 215 E. Figueroa Street
 Santa Barbara, CA 93101

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

4. SCOPE OF SERVICES.

COUNTY shall provide services to CITY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

5. TERM.

The term of this Agreement shall be from July 1, 2011 through June 30, 2012.

6. COMPENSATION OF COUNTY.

For services rendered from the COUNTY operated shelter in Goleta between July 1, 2011 and June 30, 2012, CITY shall pay COUNTY \$274,401, billed in four equal quarterly payments of: \$68,600.25. Invoices will also include a fee of \$182 for each rabies specimen submitted during the quarter. Quarterly payments to COUNTY shall be made within thirty (30) days of receipt of invoice. Invoices shall be delivered to the CITY address specified in Section 3, NOTICES above.

7. INTERPRETATION/APPLICATION OF CITY CODES.

Except as may be provided in the Scope of Services attached as Exhibit A, CITY shall be responsible for the legal work associated with the interpretation and prosecution of its ordinances, and defense of the ordinance content and application.

8. INDEPENDENT CONTRACTOR.

The parties hereto, in the performance of this Agreement, will be acting in their individual governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that an independent contractor relationship will be created by this Agreement. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Without limiting the foregoing, the CITY shall advise the

COUNTY's Division of Animal Services in the implementation and enforcement of its code pursuant to this Agreement.

9. REGULAR BUSINESS HOURS AND COUNTY HOLIDAYS.

The shelter will be open to the public the following hours:

9.1. Open for office operations and kennel visitation:

Monday through Friday from 9:00 a.m. to 4:45 p.m.
Saturday from 10:00 a.m. to 3:45 p.m.

9.2. Animal Control Officers will be on regular response:

Monday through Friday from 9:00 a.m. to 5:00 p.m.

9.3. The shelter will be closed on Sundays and official COUNTY holidays which are as follows:

New Year's Day	Labor Day
Martin Luther King Day	Veterans' Day
Presidents' Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

10. CONFLICT OF INTEREST.

CITY covenants that CITY presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CITY further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CITY.

11. OWNERSHIP OF DOCUMENTS.

All reports and documents prepared by COUNTY under this Agreement are the joint property of the CITY and the COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

12. INDEMNIFICATION AND INSURANCE.

12.1. Indemnification.

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead all parties agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully defend, indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the acts or omissions of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage, claim, expense, cost, or liability occurring by reason of the acts or omissions of other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Agreement.

12.2. Insurance.

Each party recognizes and accepts the other party is self-insured. Either party may purchase commercial insurance to cover their exposure hereunder, in whole or in part.

13. NONEXCLUSIVE AGREEMENT.

CITY understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others to provide the same or similar services as those provided to CITY as the COUNTY desires, so long as the provisions of such services does not impede the services provided to CITY under this agreement.

14. ASSIGNMENT.

COUNTY shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of CITY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

15. TERMINATION.

15.1. For Cause. In the event of a material breach of this Agreement, either party may initiate termination of the Agreement. The aggrieved party shall serve the other party with a thirty (30) day notice to cure the breach. The notice must specify in detail the nature of the alleged material breach, including the supporting factual basis and any relevant documentation. (i) A material breach by COUNTY may include, but not be limited to, COUNTY's failure to meet the requirements described in Exhibit A of this Agreement; (ii) A material breach by CITY may include, but not be limited to, failing to make timely payments as required by this Agreement.

The party receiving the notice shall have ten (10) days from the date of receipt to respond to the alleged breach by either requesting in writing a meeting with the noticing party, curing the breach, or if the breach is of such a nature that it cannot be reasonably cured within thirty (30) days, commence curing the breach within said period and notifying the other party of the actions taken. If a meeting is requested by the party receiving the notice, it shall be scheduled within ten (10) days of the date notice is received. If corrective action is not taken by the party receiving notice, or the parties do not reach an agreement during the notice period, the parties shall deliver to each other all data, estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by the other party in performing this Agreement, whether completed or in process, and this Agreement shall terminate upon completion of the thirty (30) days notice period, at the option of the noticing party, notwithstanding any other provision of this Agreement.

15.2. For Convenience. COUNTY or CITY may terminate this Agreement upon thirty (30) days written notice. Following notice of such termination, COUNTY shall cease work and notify CITY as to the status of its performance.

15.3. Notwithstanding any other payment provision of this Agreement, CITY shall pay COUNTY for service performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

16. SECTION HEADINGS.

The headings of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

17. SEVERABILITY.

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

18. REMEDIES NOT EXCLUSIVE.

No remedy herein conferred upon or reserved to COUNTY or CITY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

19. TIME IS OF THE ESSENCE.

Time is of the essence in this Agreement and each covenant and term is a condition herein.

20. NO WAIVER OF DEFAULT.

No unreasonable delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

21. ENTIRE AGREEMENT AND AMENDMENT.

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

22. SUCCESSORS AND ASSIGNS.

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

23. COMPLIANCE WITH LAW.

CITY shall, at its sole cost and expense, comply with all local, state and federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CITY in any action or proceeding against CITY, whether COUNTY be a party thereto or not, that CITY has violated any such ordinance or statute, shall be conclusive of that fact as between CITY and COUNTY.

24. CALIFORNIA LAW.

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

25. EXECUTION OF COUNTERPARTS.

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

26. AUTHORITY.

All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CITY hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CITY is obligated, which breach would have a material effect hereon.

27. PRECEDENCE.

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

Agreement for Animal Sheltering Services between the **County of Santa Barbara** and **City of Santa Barbara**.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on July 1, 2011.

COUNTY OF SANTA BARBARA

ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD

Chair, Board of Supervisors

By: _____
Deputy Clerk

Date: _____

APPROVED AS TO FORM:
DENNIS MARSHALL
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED
TAKASHI WADA, MD, MPH
DIRECTOR / HEALTH OFFICER
PUBLIC HEALTH DEPARTMENT

APPROVED AS TO FORM:
RAY AROMATORIO
RISK MANAGER

By: _____
Director

By: _____
Risk Manager

APPROVED
JAN E. GLICK, MS
DIRECTOR OF ANIMAL SERVICES
PUBLIC HEALTH DEPARTMENT

By: _____
Director

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CITY OF SANTA BARBARA
A Municipal Corporation

ATTEST:

By: _____
James L. Armstrong, City Administrator

By: _____
Cynthia M. Rodriguez, CMC
City Clerk Services Manager

APPROVED AS TO CONTENT:

By: _____
Camerino Sanchez, Police Chief

Date: _____

APPROVED AS TO FORM:

By: _____
Stephen P. Wiley, City Attorney

By: _____
Robert Samario, Finance Director

By: _____
Mark Howard, Risk Manager

EXHIBIT A

STATEMENT OF WORK

- A) The parties agree that the COUNTY's Division of Animal Services shall perform animal sheltering services in the CITY, as follows:
- 1) Those services set forth in Section I, Definitions of the Agreement.
 - 2) Impound and properly maintain impounded animals, and euthanize all animals in accordance with CITY ordinances. This service will be provided at the Goleta Animal Shelter.
 - 3) On a monthly basis, provide the CITY with a detailed kennel report.
- B) The COUNTY shall use its discretion to determine how long an animal may be held for adoption.
- C) If the CITY impounds an animal pursuant to legal action, the animal shall be held and the COUNTY shall consult with the CITY's Animal Control Office regarding the animal's disposition.
- D) COUNTY shall inoculate any animal being held pursuant to Santa Barbara Municipal Code section 6.16.050 – *Reports of Animal Biting* with a rabies vaccine prior to release from the shelter.
- E) Upon retrieval by any owner of an animal held by COUNTY for alleged violation of Santa Barbara Municipal Code section 6.08.020 – *Animals at Large*:
- 1) COUNTY shall issue owner an administrative citation on behalf of CITY and provide CITY with copy within five (5) business days;
 - 2) CITY shall provide COUNTY with copies of the citation for use; and
 - 3) After issuance of citation COUNTY shall not be responsible for the further prosecution or collection of the administrative citation. Nor shall any COUNTY employee or its agent be required to present as a witness at any administrative hearing that may result from the issuance of the citation.