

## **Amendment to the Memorandum of Understanding**

### **Between the County of Santa Barbara and the Animal Shelter Assistance Program**

This Memorandum of Understanding, (hereinafter, MOU) is made and entered into this 15th day of March, 2022, by and between the County of Santa Barbara (hereinafter "COUNTY") and Animal Shelter Assistance Program (hereinafter "ASAP"),

#### **Recitals**

WHEREAS, ASAP has a stated mission of "The mission of the Animal Shelter Assistance Program (ASAP) is to save the lives of cats in Santa Barbara County by providing shelter, veterinary care, behavioral support, adoption and foster services, education and community outreach.

In support of the primary goals stated above, ASAP also seeks to:

- Maximize community involvement through volunteerism and outreach.
- Reduce the population of stray, homeless, and feral cats through adoption, spay/neuter and Trap-Neuter-Return programs, redemption, foster care, and educational programs.
- Form strong partnerships with Santa Barbara County Animal services and other animal welfare groups to promote animal welfare and related causes."; and

WHEREAS, the COUNTY administers the Animal Services program for Santa Barbara County and pursuant to Section 31752 of the Food and Agriculture Code, COUNTY is required to provide shelter for stray cats; and

WHEREAS, the COUNTY administers the Animal Services program for Santa Barbara County and pursuant to Section 30503 and 31751.3 of the Food and Agriculture Code, COUNTY is required to provide spay/neuter of dogs and cats placed by the agency; and

WHEREAS, the COUNTY pursuant to Section 121690 of the Health and Safety Code, COUNTY is required to provide a rabies control program; and

WHEREAS, the COUNTY and ASAP have had a collaborative and successful relationship since the inception of ASAP in 1989; and

WHEREAS, in 1992, the Board of Supervisors accepted the donation of a mobile unit from ASAP to be used as a temporary cat facility at the Santa Barbara Shelter and designated to be used for the care and welfare of cats brought to the Santa Barbara County Animal Shelter at 5473 Overpass Road, Santa Barbara, and subject to the terms therein; and

WHEREAS, in 2004, the Board of Supervisors accepted the donation of renovation of the ASAP Cat Shelter from ASAP at the Santa Barbara Shelter and designated to be used for the care and welfare of cats brought to the Santa Barbara County Animal Shelter at 5473 Overpass Road, Santa Barbara; and

WHEREAS, on February 16, 2016, the Santa Barbara County Board of Supervisors approved staff to expedite the process of vetting and analyzing the appropriate MOUs related to groups already providing prescribed services for the COUNTY; and

WHEREAS, the Santa Barbara County Board of Supervisors finds that ASAP operates programs that are necessary to meet the social need of the population of the County, including public health and safety.

NOW, THEREFORE, the parties agree to amend the MOU as follows:

- 1. Section F, INSURANCE AND INDEMNIFICATION is deleted in its entirety and replaced with the following:

**“F. INSURANCE AND INDEMNIFICATION**

**INDEMNIFICATION**

ASAP agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys’ fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. ASAP’s indemnification obligation applies to COUNTY’s active as well as passive negligence but does not apply to COUNTY’s sole negligence or willful misconduct.

**NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS**

ASAP shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

**INSURANCE**

ASAP shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with ASAP’s operation and use of the leased premises. The cost of such insurance shall be borne by ASAP.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers’ Compensation:** as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. (This applies to lessees with employees).
3. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
4. **Property Insurance:** against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision

If ASAP maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by ASAP. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – The COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of ASAP including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to ASAP’ insurance at (least as broad as ISO Form CG 20 10).
2. **Primary Coverage** – For any claims related to this contract, ASAP’s insurance coverage shall be primary insurance coverage at least as broad as

ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of ASAP's insurance and shall not contribute with it.

3. **Legal Liability Coverage** – The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the leased property.
4. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
5. **Waiver of Subrogation Rights** – ASAP hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said ASAP may acquire against the COUNTY by virtue of the payment of any loss under such insurance. ASAP agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
6. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require ASAP to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
7. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
8. **Verification of Coverage** – ASAP shall furnish the COUNTY with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to COUNTY before occupying the premises. However, failure to obtain the required documents prior to the work beginning shall not waive ASAP's obligation to provide them. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

9. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.

10. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. ASAP agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.”

2. Section G. INTERIM M.O.U. shall be amended by revising the date at the end of the last sentence to read as follows:

**“G. INTERIM M.O.U.**

The memorandum of understanding is meant as an internal agreement between COUNTY and ASAP with the understanding that the longer-term goal is for ASAP to become an external partner and receive cats as transfers and receive fees for services. The details of the future relationship will be negotiated between COUNTY and ASAP. It is acknowledged by COUNTY and ASAP that the target date for ASAP to become an external partner is July 1, 2024.”

3. Section H. TERM shall be amended by revising the date at the end of the first sentence.

**“H. TERM**

The term of this MOU shall commence on the day and date written above and shall be effective until July 1, 2024. This MOU automatically renews to new consecutive one-year terms unless either party provides written notice at least sixty (60) days prior to the end of the term.”

4. Section Q. NOTICES shall be revised to update the contact information as follows:

**“Q. NOTICES**

All notices or correspondence under this MOU shall be given to the following addresses and shall be deemed delivered on the date of actual hand

delivery, or on the third business day after the date of mailing, or via electronic delivery.

COUNTY Angela Yates, Animal Services Director  
County of Santa Barbara  
Public Health Department  
5473 Overpass Road  
Goleta, CA 93116  
Tel: 805.319.8646  
Email: [AYates@sbcphd.org](mailto:AYates@sbcphd.org)

With a copy to: Kelly Lazarus, Contracts Unit Supervisor  
Santa Barbara County Public Health  
300 N. San Antonio Road, Building 8  
Santa Barbara, CA 93110  
Tel: 1-805-681-5107  
Email: [KLazarus@sbcphd.org](mailto:KLazarus@sbcphd.org)

ASAP Bernard Kelmenson  
President, Board of Directors  
Animal Shelter Assistance Program  
P.O. Box 357  
Goleta, CA 93116  
Tel: 805.886.4930  
Email: [bernard@asapcats.org](mailto:bernard@asapcats.org)

With copy to: Stacey Matson  
HR & Business Manager  
Animal Shelter Assistance Program  
P.O. Box 357  
Goleta, CA 93116  
Tel: 805.895.8547  
Email: [stacey@asapcats.org](mailto:stacey@asapcats.org)

- 5. It is expressly understood that in all other respects, the terms and conditions of the MOU dated April 4, 2017, shall remain in full force and effect.

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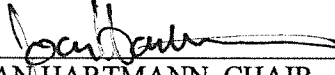
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IN WITNESS WHEREOF, the parties have executed this MOU to be effective on March 15, 2022.

“COUNTY”  
COUNTY OF SANTA BARBARA

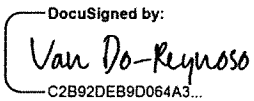
ATTEST:  
MONA MIYASATO, COUNTY EXECUTIVE  
OFFICER and CLERK OF THE BOARD

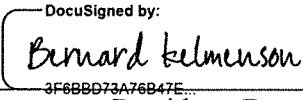
By:   
JOAN HARTMANN, CHAIR  
BOARD OF SUPERVISORS

By:   
Deputy Clerk

RECOMMENDED FOR APPROVAL:  
PUBLIC HEALTH DEPARTMENT

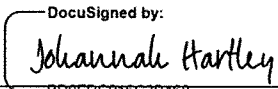
“ASAP”  
ANIMAL SHELTER ASSISTANCE PROGRAM

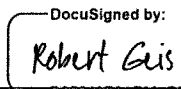
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Van Do-Reynoso, Director

By:   
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Bernard Kelmenson, President, Board of  
Directors

APPROVED AS TO FORM:  
RACHEL VAN MULLEM  
COUNTY COUNSEL

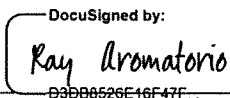
APPROVED AS TO ACCOUNTING FORM  
BETSY M. SCHAFFER, CPA  
AUDITOR-CONTROLLER

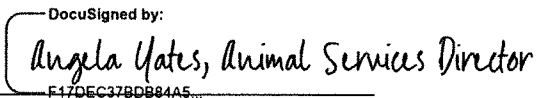
By:   
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Johannah Hartley  
Deputy County Counsel

By:   
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Deputy

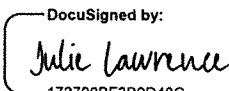
APPROVED:

APPROVED:

By:   
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Ray Aromatorio, ARM, AIC  
Risk Manager

By:   
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Angela Yates, Director, Animal Services

APPROVED:

By:   
172790BF3B9D48C...  
Julie Lawrence, Manager  
GS/Real Estate Division