

Project: ASAP Cat Facility at Animal Shelter
APN: 071-220-032
Folio: 003768
Agent: CS

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (hereinafter "Agreement") is made by and between the COUNTY OF SANTA BARBARA, a political subdivision of the State of California (hereinafter "COUNTY"), and the ANIMAL SHELTER ASSISTANCE PROGRAM, a California non-profit organization (hereinafter "LICENSEE"), with reference to the following:

WHEREAS, the COUNTY is the fee owner of that certain real property and improvements commonly known as the Santa Barbara County Animal Shelter, located at 5473 Overpass Road, Goleta, CA 93117, also identified as Assessor Parcel Number 071-220-032, and shown on "EXHIBIT A" attached hereto and incorporated herein by this reference, (the "Property"); and

WHEREAS, the improvements on the Property include a triple-wide mobile unit which was donated by the LICENSEE for the use of the care and welfare of cats brought to the Property, was accepted by the COUNTY's Board of Supervisors in 1992- as well as renovations of the mobile unit in 2004; and

WHEREAS, LICENSEE's mission 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 and seek to: 1) maximize community involvement through volunteerism and outreach; 2) reduce the population of stray, homeless, and feral cats through adoption, spay/neuter and Trap-Neuter-Return programs, redemption, foster care, and education programs; and 3) form strong partnerships with COUNTY and other animal welfare groups to promote animal welfare and related causes; and

WHEREAS, COUNTY administers the Animal Services program for Santa Barbara County and pursuant to §31752 of the Food and Agriculture code is required to provide shelter for stray cats and per §30503 and §31751.3 of the Food and Agriculture code is required to provide spay/neuter of dogs and cats placed by the agency; and

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

WHEREAS, COUNTY and LICENSEE have had a collaborative and successful relationship since the inception of ASAP in 1989, and wish to continue the relationship by approval of a Memorandum of Understanding (MOU), Exhibit 1, detailing the terms and conditions by which the parties exchange the uses granted herein for the provision of services and programs provided in that MOU by the LICENSEE.

NOW, THEREFORE, in consideration of the provisions, covenants, and conditions,

contained herein, the parties agree as follows:

1. **RIGHTS GRANTED:** For and in consideration of the terms and conditions detailed in the MOU to be performed by LICENSEE as the basis for this Agreement, and the terms and conditions of this Agreement, COUNTY hereby grants to LICENSEE a personal, revocable and non-assignable right to enter upon and use a portion of the COUNTY-owned property known as the Santa Barbara County Animal Shelter located at 5473 Overpass Road, Goleta, CA 93117. The specific area covered by this Agreement is a structure consisting of three (3) mobile units used for and identified as the "Cat Facility" shown on the map marked Exhibit "B" attached hereto and incorporated herein by this reference. Notwithstanding, the COUNTY will have access rights as necessary for maintenance, emergencies and for other purposes as stated in the MOU.

The Cat Facility consists of a triple-wide structure totaling 1800 square feet (3 mobile commercial coaches of 30' x 20' each, a double-wide classroom, memorial garden, outdoor cat runs and storage structures).

The COUNTY also grants non-exclusive access to the bathroom located in the Santa Barbara County Animal Services building and use of the parking lot as designated by the department for staff, public and volunteer use.

2. **ADMINISTRATION AND ENFORCEMENT:** The provisions of this Agreement shall be administered and enforced for the COUNTY by the Director of the Public Health Department, or their designee.

3. **PURPOSE AND USE OF PROPERTY:** LICENSEE shall use the Cat Facility solely for the purpose of providing shelter, veterinary care, behavioral support, adoption and foster services, volunteer training, fundraising, education and community outreach services for stray, homeless, protective custody and feral cats in Santa Barbara County seven days a week so long as this Agreement is valid. LICENSEE shall administer all tasks/services in the provisions of the MOU and this Agreement in compliance with all applicable state and local laws, regulations, rules and ordinances, guidelines, policies, directives, and standards. LICENSEE shall not use the Property or Cat Facility for any other purposes without the express written consent of COUNTY.

The License Agreement does not restrict or limit the use of the Cat Shelter by ASAP to fulfill its organizational mission to save the lives of the cats in Santa Barbara County, including but not limited to providing care for cats not in the custody of the COUNTY.

4. **TERM:** This Agreement shall commence upon COUNTY'S final execution of the Agreement, and shall automatically renew annually, as of July 1 of each year, : for a term not to exceed five years. Upon termination, COUNTY and LICENSEE will re-negotiate in good faith for a new term, not to exceed five years.

5. **RENT:** In accordance with Government Code Section 26227 and the Santa Barbara County Board of Supervisors' determination that the operations of LICENSEE are a benefit to the community and in consideration of LICENSEE'S continued funding for the programs and provision of services for homeless, stray and feral cats, base rent shall be waived during the term.

6. **PROPERTY SUITABILITY:** LICENSEE has investigated the Property and Cat

Facility and has determined that they are suitable for LICENSEE'S intended operations as a cat shelter, and therefore, LICENSEE hereby accepts, by way of executing this Agreement, the Property and Cat Facility, in its existing condition.

LICENSEE ACKNOWLEDGES THAT, EXCEPT AS STATED HEREIN, COUNTY HAS MADE NO REPRESENTATIONS OR WARRANTIES ABOUT THE CONDITION OF THE PROPERTY OR CAT FACILITY, OR THE SUITABILITY OF SAME FOR THE INTENDED USE BY LICENSEE.

7. **ABANDONMENT:** LICENSEE shall not abandon, vacate, surrender or assign use of the Property and Cat Facility at any time during the term of this Agreement. If LICENSEE does abandon, vacate, surrender or assign use of the Cat Facility, this Agreement and all of LICENSEE'S rights thereto shall, at the option of COUNTY, terminate after notice and the right to cure as provided in Section 21. Except as set forth in Section 25, *TERMINATION*, any personal property belonging to LICENSEE and left on the Property or Cat Facility more than thirty (30) days after LICENSEE vacates the Property and Cat Facility, shall be deemed abandoned at the option of COUNTY, and title shall pass to COUNTY. This provision shall also apply to personal property left after the termination of this Agreement.

8. **NONINTERFERENCE:** LICENSEE agrees not to use, nor permit those under its control, including, but not limited to, its employees, clients, tenants, invitees, volunteers, agents and/or independent contractors, to use any portion of the Property or Cat Facility in any way which interferes with other COUNTY operations on the Property and Cat Facility. Such interference shall be deemed a material breach, and LICENSEE shall terminate said interference immediately upon notice from COUNTY.

9. **UTILITY CHARGES:** COUNTY shall provide utilities to the Property and Cat Facility, which include electricity, gas, trash, and water/sewer. Telephone, internet and cable are excluded from COUNTY provision.

10. **MAINTENANCE AND REPAIR:** The Property and Cat Facility is being accepted by LICENSEE in its current condition. COUNTY shall be responsible for all maintenance and repair to the Property and Cat Facility in a safe and workable condition. COUNTY, its elected officials, officers, agents, employees and representatives, attorneys and contractors or its designees reserve the right to enter the Property and Cat Facility at all reasonable times to inspect, and LICENSEE agrees that it will facilitate any such inspection.

11. **SUCCESSORS IN INTEREST:** This Agreement and the covenants contained herein shall be binding upon and inure to the benefit of the respective parties and to any government or private organization into which LICENSEE may be merged.

12. **INDEMNIFICATION:** LICENSEE 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 the activities of Licensee pursuant to this Agreement from any cause whatsoever, including the acts, errors or omissions of its officers, employees, contractors, volunteers or any other person or entity acting on its behalf, 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.

13. NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS: LICENSEE 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.

14. INSURANCE: LICENSEE 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 the LICENSEE's operation and use of the Property and Cat Facility. The cost of such insurance shall be borne by the LICENSEE.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- i. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- ii. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code I), or if LICENSEE 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.
- iii. 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.
- iv. Property Insurance: against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

If the LICENSEE maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the LICENSEE. 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:

- i. *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 the LICENSEE 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 the LICENSEE's insurance at (least as broad as ISO Form CG 20 10.
- ii. *Primary Coverage* – For any claims related to this Agreement, the LICENSEE's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self- insurance maintained by the COUNTY, its officers,

officials, employees, agents or volunteers shall be excess of the LICENSEE's insurance and shall not contribute with it.

- ii. *Notice of Cancellation* – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
- iv. *Waiver of Subrogation Rights* -LICENSEE hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said LICENSEE may acquire against the COUNTY by virtue of the payment of any loss under such insurance. LICENSEE 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.
- v. *Deductibles and Self-Insured Retention* – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the LICENSEE 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.
- vi. *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".
- vii. *Verification of Coverage* – LICENSEE shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the LICENSEE's obligation to provide them. The LICENSEE shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- viii. *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 after notice and the right to cure as provided for in Section 21. 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.
- ix. *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. LICENSEE 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 and of the insurance and indemnification requirements will not be deemed as

a waiver of any rights on the part of COUNTY."

15. **NONDISCRIMINATION:** LICENSEE shall comply with COUNTY laws, rules and regulations regarding nondiscrimination as such are found in the Santa Barbara County Code and as such may from time to time be amended. These provisions are incorporated herein as if they were fully set forth.

Noncompliance with provisions of this section shall constitute a material breach of this Agreement and in addition to any other remedies provided by law, COUNTY shall have the right, after notice and the right to cure as provided in Section 21, to terminate this Agreement and the interest hereby created without liability therefor. LICENSEE shall also comply with applicable State or Federal laws, rules and regulations regarding nondiscrimination.

16. **ENVIRONMENTAL IMPAIRMENT:** LICENSEE shall comply in all material respects with all applicable laws, regulations, ordinances, guidelines, policies, directives, standards, rules and orders regardless of when they become or became effective, including without limitation those relating to construction, grading, signing, health, safety, noise, environmental protection, waste disposal, water and air quality, and shall furnish satisfactory evidence of compliance upon request by COUNTY. Should any discharge, leakage, spillage, emission, or pollution of any type occur upon or from the Property or Cat Facility due to LICENSEE'S use and occupancy, LICENSEE shall clean all property affected to the satisfaction of COUNTY and any governmental body having jurisdiction therefor. LICENSEE shall indemnify, hold harmless, and defend COUNTY from and against any and all claims, demands, causes of action, damages, costs, expenses (including without limitation any fines, penalties, judgments, litigation costs, attorney's fees, consulting, engineering and construction costs), judgments, or liabilities incurred by COUNTY arising out of, in connection with, or related to LICENSEE'S breach of this section, or arising out of, in connection with, or related to any such discharge, leakage, spillage, emission or pollution due to LICENSEE'S use and occupancy, regardless of whether such claim, demand, cause of action, damage, cost, expense, judgment or liability arises during or after the term of this Agreement, and regardless of negligence, active or passive, of COUNTY.

17. **TOXICS:** LICENSEE shall not manufacture or generate hazardous wastes on the Property or Cat Facility. LICENSEE shall be fully responsible for any hazardous wastes, substances or materials as defined under state or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported by LICENSEE, its officers, agents, representatives, employees, volunteers, independent contractors or designees on the Property and/or Cat Facility during the term of this Agreement, and shall comply with and be bound by all applicable provisions of such state, or local law, regulation, or ordinance dealing with such wastes, substances, or materials. LICENSEE shall notify COUNTY and the appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances or materials.

18. **DAMAGE TO PROPERTY:** LICENSEE shall protect and be responsible for any loss, destruction, or damage to Property or Cat Facility that results from, or is caused by LICENSEE'S willful misconduct or negligent acts or omissions or from the failure on the part of LICENSEE to maintain and administer the Property and Cat Facility in accordance with sound management practices. Notwithstanding anything to the contrary herein, LICENSEE shall be liable to COUNTY for any damages resulting from damage to Property

and/or Cat Facility, which damages result from or are caused by LICENSEE'S willful misconduct or negligence. LICENSEE shall ensure that the Property and Cat Facility are returned to COUNTY in like condition to that in which it was furnished to LICENSEE, reasonable wear and tear excepted. LICENSEE shall repair or make good any such damage, destruction or loss at any COUNTY Site, and shall do so without requesting contribution from COUNTY or assistance from COUNTY officers or employees.

Upon the loss or destruction of, or damage to any portion of the Property and/or Cat Facility, LICENSEE shall notify the COUNTY thereof and shall take all reasonable steps to protect the Property and/or Cat Facility from further damage.

19. **COMPLIANCE WITH THE LAW:** LICENSEE shall comply with all applicable laws, rules, regulations and ordinances as amended, affecting the Property and Cat Facility now or hereafter in effect. In addition, LICENSEE shall comply with all applicable COUNTY security programs and policies regarding the Property and Cat Facility.

20. **NOTICES:** Any notice to be given to the parties shall be in writing and shall be served, either personally or by mail, to the following:

COUNTY: Jan E. Glick, MS, Animal Services Director
County of Santa Barbara
Public Health Department
548 W. Foster Road
Santa Maria, CA 93455

with copy to:

Director
County of Santa Barbara
Public Health Department
300 San Antonio Road
Santa Barbara, CA 93110

LICENSEE: Angela Walters Rockwell, Executive Director
Animal Shelter Assistance Program
P.O. Box 357
Goleta, CA 93116

or to the parties at such other place as may be designated in writing. Such notices shall be served by depositing them addressed as set out above, postage prepaid, in the U.S. mail, reliable overnight courier, or by personal delivery. The date of mailing, or in the event of personal delivery, the date of delivery shall constitute the date of service.

21. **DEFAULT:** Except as otherwise required herein, should LICENSEE at any time be in material default hereunder with respect to any covenant contained herein, COUNTY shall give notice to LICENSEE specifying the particulars of the default and LICENSEE shall promptly commence remedial action to cure the default. Should such default continue uncured for a period of thirty (30) calendar days from such notice, this Agreement shall terminate at the option of the COUNTY; unless the cure of such default shall reasonably take more than thirty (30) calendar days in which case LICENSEE shall proceed with all due speed to cure the default and shall have a reasonable time to effectuate its cure.

22. **REMEDIES:** In the event of a default or breach, either party may exercise any right or remedy at law or in equity which such party may have by reason of such default or breach including but not limited to the following:

- A. The nondefaulting party may waive the default or breach in accordance with Section 23, *WAIVER*, herein below.
- B. The nondefaulting party may maintain this Agreement in full force and effect, and recover whatever monetary loss(es) may have resulted from such default or breach.
- C. Where COUNTY is the nondefaulting party, COUNTY may terminate the Agreement and LICENSEE shall surrender use of and vacate the Property and Cat Facility within sixty (60) days of receipt of written notice of termination from COUNTY.

23. **WAIVER:** It is understood and agreed that any waiver of any term of this Agreement or any default or breach of this Agreement shall not be deemed to be a waiver of any continuing or subsequent default or breach or of any other provision of this Agreement. Waivers of provisions of this Agreement must be in writing and signed by the Director of the Public Health Department or their designee and LICENSEE.

24. **AMENDMENTS:** This Agreement may only be amended by written consent of the parties and such changes shall be binding upon the heirs or successors of the parties.

25. **TERMINATION:** This Agreement shall terminate:

- A. Upon abandonment of the Property and/or Cat Facility as provided in Section 7, *ABANDONMENT*; or
- B. Upon LICENSEE'S default as provided in Section 21, *DEFAULT*, and in Section 22, *REMEDIES*; or
- C. As provided in Section 26, *DESTRUCTION* of Property; or
- D. Upon termination of the MOU agreement for cause pursuant to Section I.1 of the MOU; or
- E. Upon termination of the MOU agreement for convenience pursuant to Section I.2 of the MOU and after a reasonable period of time to renegotiate terms of a new MOU and/or for Licensee to transition activities to a new facility, which period shall extend for up to 180 days, this License agreement also terminates.

Upon termination of this Agreement, as set forth in either this Section or Sections stated above, all rights of LICENSEE to occupy the Property shall cease, and LICENSEE shall quietly and peacefully deliver to COUNTY possession and interest in the Property and Cat Facility (which solely consists of three mobile commercial coaches on a pad and pier foundation). The disposition of the Cat Facility shall be governed by Section I of the MOU. LICENSEE will have the right to remove all furniture, appliances, unattached fixtures, improvements specific to the care of the cats, and equipment owned by the LICENSEE, if LICENSEE chooses not to donate it to COUNTY. LICENSEE will leave plumbing and electrical fixtures attached to the building.

25. **DESTRUCTION:** If the Property and/or Cat Facility is partially or totally destroyed by fire or other casualty, this Agreement, at the option of LICENSEE, shall terminate. If LICENSEE chooses to terminate the Agreement then LICENSEE, at COUNTY'S option, shall remove all of LICENSEE'S structures and equipment from the Property and/or Cat Facility. The COUNTY does not insure personal property owned by LICENSEE. In the event of partial or total destruction of the Cat Facility, COUNTY and LICENSEE will work together to determine next action.

27. **AGENCY DISCLOSURE:** LICENSEE acknowledges that the COUNTY is not its agent in this transaction nor does it provide legal representation to LICENSEE. LICENSEE has had the opportunity to consult with its own attorneys regarding this Agreement. COUNTY is neither the agent for LICENSEE nor a dual agent in this transaction and has not provided legal advice to LICENSEE.

28. **SURRENDER OF PREMISES:** Upon termination of this Agreement, LICENSEE shall vacate and surrender possession of, and any claim to the Property and Cat Facility, leaving it in good condition, except for ordinary wear and tear.

29. **CAPTIONS:** The title or headings to the sections of this Agreement are not a part of this Agreement, and shall have no effect upon the construction or interpretation of any part hereof.

30. **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.

31. **CERTIFICATION OF SIGNATORY:** The signatories of this Agreement and each of them represent and warrant that they are authorized to execute this Agreement and that no additional signatures are required to bind COUNTY and LICENSEE to its terms and conditions or to carry out duties contemplated herein.

32. **ENTIRE AGREEMENT:** The parties to this Agreement intend that their negotiations, conversations and statements made prior to execution of this Agreement are fully integrated and expressed herein, and no such negotiations, conversations, and statements shall be deemed to create rights or obligations other than those stated herein.

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IN WITNESS WHEREOF, COUNTY and LICENSEE have executed this Agreement by the respective authorized representatives as set forth below to be effective as of the date executed by COUNTY.

“COUNTY”
COUNTY OF SANTA BARBARA

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: _____
Joan Hartmann, Chair
Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

APPROVED:

By: _____
Director
Public Health Department

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
THEODORE A. FALLATI, CPA
AUDITOR-CONTROLLER

By: _____
Scott Greenwood
Deputy County Counsel

By: _____
Deputy Auditor-Controller

APPROVED:

APPROVED:

By: _____
Ray Aromatorio, ARM, AIC
Risk Manager

By: _____
Don Grady, Esq.
Real Property Division Manager

(LICENSEE 'S signatures)

“LICENSEE”

Animal Shelter Assistance Program

Angela Walters Rockwell, Executive Director

Kaitlyn Bathel, President, Board of Directors