

Attachment A

Animal Control Services Agreement

AGREEMENT TO PROVIDE ANIMAL CONTROL FIELD SERVICES

THIS AGREEMENT is made and effective November 20, 2020, by and between the MORONGO BAND OF MISSION INDIANS ("Morongo") and the CITY OF BEAUMONT ("Beaumont"). Beaumont and Morongo are at times hereinafter collectively referred to as "Parties" or individually as a "Party".

RECITALS

A. Beaumont has the personnel, experience and equipment to provide animal control field services under the direction of Beaumont's Chief of Police.

B. Morongo has asked Beaumont to provide it with animal control field services. It is the purpose of this Agreement to set forth the terms and conditions by which Beaumont will do so.

AGREEMENT

NOW, THEREFORE, the consideration hereinafter set forth and subject to and upon the terms, covenants and conditions of this Agreement, the Parties agree as follows:

1. **Scope of Basic Animal Services.** Beaumont shall provide the following Basic Animal Services:

a. If available, a trained animal control field service officer on duty ("ACO") seven (7) days a week, between the hours of 7 a.m. and 5 p.m., which ACO shall be equipped with a motor vehicle suitable for the impoundment of small animals, including basic tools required to perform basic animal services. If such officer is not available, then Morongo shall be responsible for responding to calls for service.

b. Beaumont will provide Morongo 24 hour access to Beaumont temporary kennels.

c. Beaumont will provide transportation of impounded animals from Beaumont Police Department to Ramona Animal Shelter.

2. **Compensation.**

a. For each animal control service call-out, Morongo shall pay to Beaumont the sum of \$75.00 (which sum includes mileage expenses), plus any actual costs incurred including, but not limited to, the impoundment of large or wild animals, tranquilizers, veterinary services, shelter services, additional officers, animal cruelty investigations, and any other services not within the scope of Basic Animal Services, billed and paid monthly.

b. For each animal delivered by Morongo to the Beaumont Police Department, Morongo shall pay to Beaumont the sum of \$35.00, plus any actual costs incurred as listed in paragraph 2.a.

3. **Term of Agreement.** The initial term of this Agreement shall be for one (1) year with automatic one year renewals for two additional years unless terminated sooner as provided in section 5.

4. **Tribal Escort.** An ACO shall, whenever practicable, be accompanied by a Morongo Public Safety Officer on each service call.

5. **Termination.** Morongo or Beaumont may terminate this Agreement at any time, upon 30-days prior written notice; provided, however, that Morongo shall pay for all services rendered to it prior to the date of termination.

6. **Morongo Liaison.** In order to ensure smooth operation of the services provided hereunder, Morongo and Beaumont, each agrees to appoint a representative who shall be responsible for coordinating the implementation of this Agreement.

a. **Beaumont Appointment.** Beaumont appoints the Chief of Police as its representative. The Chief may be contacted as follows:

Name: Sean Thuilliez
Chief of Police
Beaumont Police Department
660 Orange Avenue
Beaumont, CA 92223
Telephone: 951-769-8500 Fax: 951-769-8508
E-mail: sthuelliez@beaumontpd.org

b. **Morongo Appointment.** Morongo appoints Morongo Manager as its representative. Morongo Manager may be contacted as follows:

Name: Radames Gil
Chief of Police
Morongo Tribal Reservation Patrol
47350 Foothill Road
Banning, CA 92220
Telephone: 951-755-5305
Fax: 951-755-5127
E-mail: rgil@morongo-nsn.gov

7. **Notices.** Any notice, payment, statement, or demand required or permitted to be given hereunder by either Party to the other shall be affected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the Parties at the addresses appearing in section 6 above unless either Party changes its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

8. **Indemnification.** Nothing in the provisions of this Agreement is intended to create duties or obligations to, or rights in, third parties not party to this Agreement, or affect the legal liability of either Party to this Agreement by imposing any standard of care different from the standard of care applicable to either Party under California law respecting the regulation and enforcement of laws regarding animals. It is understood and agreed that neither Morongo nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by Beaumont under or in connection with any work, authority or jurisdiction delegated to Beaumont under this Agreement. It is also understood and agreed that Beaumont shall defend, indemnify and save harmless Morongo, all officers, and employees from all claims, suits or actions of every name, kind, and description brought forth or on account of injuries or death of any person or damage to property resulting from anything done or omitted to be done by Beaumont under this Agreement. It is understood and agreed that neither Beaumont nor any officer or employee thereof: is responsible for any damage or liability occurring by reason of anything done or omitted to be done by Morongo under or in connection with any work, authority or jurisdiction delegated to Morongo under this Agreement. It is also understood and agreed that Morongo shall defend, indemnify and save harmless Beaumont, all officers and employees from all claims, suits or actions of every name, kind and description brought forth on account

of injuries or death of any person or damage to property resulting from anything done or omitted to be done by Morongo under connection with any work, authority or jurisdiction delegated to Morongo under this Agreement except as otherwise provided by applicable statute.

9. **Status of the Parties' Officers/Employees/Agents.** Neither Party's officers, employees, agents, partners, other contractors nor subcontractors shall be deemed to be employees of the other Party at any time. Nothing in this Agreement shall be construed as creating a civil service employer- employee relationship or a joint venture relationship. No officer, employee, agent, partner, other contractor or subcontractor of the other Party shall be eligible for membership in or any benefits from any plan for hospital, surgical, or medical insurance, or for membership in any retirement program, paid vacation, paid sick leave, other leave, with or without pay, collective bargaining rights, grievance procedures, or any other benefits which insures to or accrues to an employee of the other Party. The only performance and rights due the other Party are those specifically stated in this Agreement.

10. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. Additionally, this Agreement has been formed and shall be performed in Riverside County.

11. **Limited Waiver of Sovereign Immunity.**

a. Morongo hereby grants to Beaumont an irrevocable limited waiver of sovereign immunity from unconsented suit and consents to suit pursuant to Paragraph 10 in accordance with this Agreement to:

(1) interpret or enforce the terms of the Agreement and obtain a binding court ruling thereby; and

(2) enforce the award of all orders including any for damages owing as a consequence of a breach of the Agreement.

b. **Recipient of Waiver.** The recipient of the benefit of the irrevocable waiver of sovereign immunity is limited to Beaumont and no other person or entity, private or governmental, or assignee.

c. **Enforcement.** Morongo consents to the jurisdiction of and to be sued in, and accepts and agrees to be bound by any order or judgment of, any United States District Court or any California Superior Court, in each case sitting in the County of Riverside, or otherwise assigned, and any federal or state court having appellate jurisdiction, consistent with the terms and provisions of its limited waiver and agreement.

d. **No Revocation of Sovereign Immunity Waiver.** Morongo covenants and agrees that its limited waiver of sovereign immunity and other waivers contained in this Agreement are irrevocable so long as this Agreement remains in effect. Upon the termination of this Agreement, Morongo's limited waiver of sovereign immunity also shall terminate except as to legal actions pending in a forum identified in paragraph 11.c and as to subsequently filed legal actions based on conduct by Morongo that occurred prior to the date the Agreement was terminated. Except as provided in this paragraph 11, Morongo agrees not to revoke or further limit, in whole or in part, its limited waiver of sovereign immunity or other waivers contained in this Paragraph 11 or in any way attempt to revoke or further limit, in whole or in part, such limited waiver of sovereign immunity.

e. **Written Assurances.** Morongo shall provide Beaumont with written assurances that (1) the Morongo Tribal Council has approved the limited waiver, (2) the Tribal Council took all other necessary steps to grant the limited waiver within 30 days of execution of this Agreement, and (3) the

person who signed this Agreement on behalf of Morongo was authorized to do so by the Tribal Council.

12. **Entire Agreement.** This Agreement embodies the complete agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties relating to matters herein; and except as otherwise provided herein, cannot be modified without the prior written agreement of the Parties.

13. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

14. **Successors and Assigns.** This Agreement shall be binding upon and insure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and, except as otherwise provided in this Agreement, their assigns.

15. **Captions.** The captions to the various clauses of this Agreement are for information purposes only and shall not alter the substance of the terms and conditions of this Agreement.

16. **Authorization.** Each of the Parties represents and warrants to the other that this Agreement has been duly authorized by all necessary corporate or governmental action on the part of the representing Party and that this Agreement is fully binding on such Party.

17. **Amendments to this Agreement.** From time-to-time, Morongo and Beaumont may determine that the provision of services hereunder could be improved, made more efficient or expanded. Therefore, the Parties agree to meet and confer at the request of either Party and to negotiate in good faith such reasonable amendments to this Agreement as the Parties deem appropriate.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by the following authorized officials.

CITY OF BEAUMONT:

MORONGO BAND OF MISSION INDIANS

By: _____
REY SANTOS, Mayor

By: _____
ROBERT MARTIN, Chairman

ATTEST:

By: _____
STEVEN MEHLMAN, City Clerk

APPROVED AS TO FORM:

City Attorney

Tribal Attorney