



Folsom City Council Staff Report

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| MEETING DATE: | 8/24/2021 |
| AGENDA SECTION: | Consent Calendar |
| SUBJECT: | Resolution No. 10675 – A Resolution Authorizing the City Manager to Amend the 2018 Contract Between the City of Folsom and the Sacramento Society for the Prevention of Cruelty to Animals for Shelter Services |
| FROM: | Police Department |

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends the City Council move to adopt Resolution No. 10675 - A Resolution Authorizing the City Manager to Amend the 2018 Contract Between the City of Folsom and the Sacramento Society for the Prevention of Cruelty to Animals for Shelter Services.

BACKGROUND / ISSUE

The Sacramento Society for the Prevention of Cruelty to Animals (SSPCA) has been providing animal sheltering services to the City of Folsom since July 1, 2015. The current contract expired on December 31, 2020 and has been honored in 2021 due to the COVID 19 pandemic. Recently, the SSPCA asked the contract extension be memorialized in writing. Staff desires to continue this successful contractual partnership and seeks approval to authorize the City Manager to extend the original agreement from January 1, 2021, through December 31, 2021.

POLICY / RULE

In accordance with Chapter 2.36 of the Folsom Municipal Code, professional services costing \$62,657 or greater shall be contracted for by the City Council.

ANALYSIS

The SSPCA is a non-profit organization dedicated to providing shelter for homeless, lost, or abused pets; low-cost spay and neuter services; and public education. The organization’s mission is to “foster a loving and compassionate community for animals and people by providing assistance, creating lifelong relationships, and saving lives.”

The city has successfully worked in partnership with the SSPCA for the city's animal sheltering needs since July 1, 2015, and desires to continue that contractual partnership.

Please note that the SSPCA contract is only for animal sheltering services. The city will continue to provide a full-time Animal Services Officer to serve the community. The Animal Services Officer will continue to enforce state and local laws and ordinances to protect both the animal and human customers, respond to animal issues in the field, and provide public education, among other duties.

FINANCIAL IMPACT

The contract would extend the existing contract from January 1, 2021, through December 31, 2021. The city will continue to pay the rates defined in the 2018 contract. These rates would not exceed \$67,492 during the term of the agreement. The SSPCA will accept, at the city's discretion, up to 416 animals during the term. Excluded from this count are any animals brought to the SSPCA for end-of-life care only and animals returned after placement or adoption. During this extension, the city will continue to pay the SSPCA \$168 per animal for each animal above the 416 previously listed.

Any city licensing fees, impound fees, penalties, unaltered impound fees, vaccine fees and boarding fee collected or received by the SSPCA would be remitted to the city.

This agreement is included in the FY 2021-22 General Fund (Fund 010) Budget in the Animal Services Division.

ENVIRONMENTAL REVIEW

This action by the City Council is exempt from environmental review pursuant to Section 15061(b)(3) (Review for Exemption) of the California Environmental Quality Act.

ATTACHMENTS

1. Resolution No. 10675 A Resolution Authorizing the City Manager to Amend the 2018 Contract Between the City of Folsom and the Sacramento Society for the Prevention of Cruelty to Animals for Shelter Services
2. 2018 contract between the City of Folsom and the SSPCA

Submitted,

Richard D. Hillman, Chief of Police

Attachment 1.

**Resolution No. 10675 A Resolution Authorizing the City Manager to
Amend the 2018 Contract Between the City of Folsom and the
Sacramento Society for the Prevention of Cruelty to Animals for Shelter
Services**

RESOLUTION NO. 10675

A RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE 2018 CONTRACT BETWEEN THE CITY OF FOLSOM AND THE SACRAMENTO SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS FOR SHELTER SERVICES

WHEREAS, the Sacramento Society for the Prevention of Cruelty to Animals (SSPCA) is a non-profit organization dedicated to providing shelter for homeless, lost, or abused pets; low-cost spay and neuter services; and public education; and

WHEREAS, the current agreement between the City of Folsom and the SSPCA to provide animal sheltering services for the City expired on December 31, 2020; and

WHEREAS, due to the COVID 19 pandemic, the City and SSPCA continued to perform under the terms and conditions of the agreement during 2021; and

WHEREAS, the SSPCA and staff desires to continue this successful contractual partnership and seeks approval to authorize the City Manager to amend the existing agreement from January 1, 2021, through December 31, 2021; and

WHEREAS, funds are budgeted and available in the FY 202122 General Fund (Fund 010) Operating Budget in the Animal Services Division.; and

WHEREAS, the agreement will be in a form acceptable to the City Attorney;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Folsom authorizes the City Manager to amend the 2018 contract between the City of Folsom and the Sacramento Society for the Prevention of Cruelty to Animals for Sheltering Services.

PASSED AND ADOPTED this 24th day of August 2021, by the following roll-call vote:

AYES: Councilmember(s):

NOES: Councilmember(s):

ABSENT: Councilmember(s):

ABSTAIN: Councilmember(s):

Michael D. Kozlowski. MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

Attachment 2.
2018 contract between the City of Folsom and the SSPCA

**CONTRACT BETWEEN THE CITY OF FOLSOM AND THE SACRAMENTO
SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS FOR SHELTER
SERVICES**

THIS CONTRACT is made on January 1, 2018, by and between the City of Folsom, a Municipal Corporation (the "CITY") and the Sacramento Society for the Prevention of Cruelty to Animals, a California Corporation (the "SHELTER"), collectively referred to as the "Parties."

ARTICLE ONE – DEFINITIONS

The Parties agree that the following definitions shall apply to this Contract:

Section 1.01 "**Contract**" shall mean the enforceable CONTRACT between the parties to perform a service in consideration for specified compensation.

Section 1.02 "**Animals**" shall mean domestic animals such as dogs, cats and domesticated rabbits, non-indigenous reptiles and shall exclude birds, fowls and livestock as defined herein.

Section 1.03 "**Annual Payment**" shall mean the annual amount CITY pays SHELTER for SHELTER's services calculated pursuant to the terms of this Contract.

Section 1.04 "**Birds**" and "**Fowls**" shall be defined as an Animal belonging to the class of Aves including members of the parrot family and all game birds, including but not limited to dove, quail, duck, goose, pigeon, cardinal, blue jay, robin, sparrow, blackbird and crow.

Section 1.05 "**CITY**" shall mean the City of Folsom, a California Municipal Corporation.

Section 1.06 "**CITY Ordinance**" shall refer to Title 7 of the Folsom Municipal Code as same may, from time to time be amended.

Section 1.07 "**CITY Licensing Program**" shall mean the CITY program of licensing dogs and cats in accordance with Folsom Municipal Code Section 7.06 and California Food and Agriculture Code Section 30501.

Section 1.08 "**Contract Fees**" shall mean the monthly agreed price per Contract year for services rendered by SHELTER to CITY pursuant to this Contract. This rate shall be calculated by dividing the Annual Payment by the number of months (12) within the current CONTRACT year.

Section 1.09 "**Facility**" shall mean the facility or facilities used by SHELTER in providing shelter and other services for CITY pursuant to this Contract.

Section 1.10 "**Livestock**" shall be defined as set forth in the Folsom Municipal Code and shall include swine, sheep, goat, horse, cattle, equine, or bovine Animal.

Section 1.11 "**Redemption Period**" shall mean the period of time that a stray Animal is held at the Facility to provide the owner time to reclaim and is defined by Folsom Municipal Code Section 7.10.040(A) to be not less than seven days, not including the day of impoundment, unless sooner redeemed by the owner.



Section 1.12 “SHELTER” shall mean to the Sacramento Society for the Prevention of Cruelty to Animals (SSPCA) and its representatives.

ARTICLE TWO - IMPOUNDMENT

Section 2.01 **Facility.** The SHELTER represents that its Facility shall house and process Animals for CITY in a manner for SHELTER to meet its obligations herein as well as meets applicable legal requirements for Animal shelters, including all rules and regulations pursuant to California Civil Code section 1813, et seq., including but not limited to, Civil Code sections 1834, 1834.4 and 1846.

Section 2.02 **Impoundment.** The SHELTER agrees that it shall accept all Animals brought to its Facility by designees of the CITY, and its citizens. Such Animals shall be impounded under the exclusive control and custody of the SHELTER for periods of time as required by law, including the California Food and Agriculture Code sections 31108 and 31752 and Section 7.10.040 of the Folsom Municipal Code, and Section 1.11 of this Contract, whichever provides for a longer impoundment period. Prior to delivery to the SHELTER, the CITY shall scan for microchips or search for a CITY license and use all reasonable diligence to notify the licensed owner, if any. CITY reserves the right to accept the surrender of any animal in the field, and to impound, return, place or dispose of the animal in the CITY’s sole and complete discretion as the CITY deems appropriate without the consent or involvement of the SHELTER. SHELTER agrees to accept the surrender of ownership of an Animal by its owner who is a resident of the CITY with the prior approval of the Animal Services Officer of the CITY. Any Animal not defined in Article One shall not be delivered to the SHELTER without calling and consulting with the SHELTER as to the feasibility of impoundment, holding, and care, or available options for placement.

Section 2.03 **Holding.** Every Animal delivered to the Facility by the CITY shall become property of the SHELTER to process in accordance with this Contract regarding impoundment and redemption. The Redemption Period is defined in Section 1.11 above. The SHELTER acknowledges and agrees that Chapter 7.10 of the Folsom Municipal Code governs the impoundment, disposition and adoption of all Animals brought to the SHELTER by the CITY except for otherwise provided in this contract. Neither the CITY nor any agency, nor agent of the CITY shall have any claim or right to any Animal not claimed and redeemed during the Redemption Period. Should the CITY inform the SHELTER of its intent to continue holding an Animal prior to 6:00 p.m. of the final day of any given hold period, the SHELTER shall continue to hold the accepted Animal for the time period requested by the CITY. The SHELTER shall be solely responsible for all costs and expenses related to the accepted Animal(s) incurred after the holding period.

Section 2.04 **Care.** The SHELTER agrees that it shall provide reasonable and appropriate care for all Animals delivered to the Facility by the CITY. This includes adequate shelter, food, water and all other humane treatment.

Section 2.05 **Veterinary Care.** Unless prior authorization is provided by the CITY, the SHELTER’s acceptance and care provided for any injured or seriously ill animal shall be at the SHELTER’s sole cost and expense. Whenever exigent circumstances during the “redemption

period” (see definition at Section 1) require the SHELTER to provide immediate emergency medical care to any injured or seriously ill accepted animal and such care is actually provided, the CITY may, upon request and in its sole discretion, reimburse the SHELTER for all, or part of any reasonable cost and expenses associated with the emergency medical care of the animal. The CITY understands that the SHELTER will not provide veterinary care to animals brought into the Facility by the CITY. If the CITY impounds an animal that is injured or seriously ill, the CITY will provide immediate veterinary care through the CITY’s contract provider.

ARTICLE THREE– ANIMAL DISPOSITION

Section 3.01 Disposition Policy. The SHELTER shall have the undisputed right, consistent with Title 7 “Animals” of the Folsom Municipal Code and this Contract, to dispose of every Animal given into its custody in accordance with the following policy:

The SHELTER shall have the sole and exclusive right to determine the responsibility of persons offering to become the owners of unclaimed Animals and the suitability of the home offered, and shall have the sole and exclusive right to accept or reject such applicants for unclaimed Animals.

The SHELTER shall have the sole and exclusive right to determine if and when Animals are to be placed or euthanized but agrees to make a good faith attempt to place Animals prior to euthanizing them.

The SHELTER shall have the right to humanely euthanize any Animal impounded that is found to be physically suffering, injured or have a communicable disease prior to the end of the Redemption Period. Other treatable communicable diseases, such as Bordetella, shall be treated during the Redemption Period and in accordance with Section 2.05.

Section 3.02 Impoundment, Boarding and Adoption. The SHELTER agrees, in accordance with Section 3.01 of this Contract, that if the owner of an impounded Animal shall claim the Animal prior to the Redemption Period the SHELTER shall collect from the owner the impoundment fee(s) together with the cost of board at the current rate per Animal. Further, the SHELTER shall require the owner of every impounded Animal to pay all applicable fees including licensing and vaccination fees of an impounded Animal which has not been inoculated and licensed, as required by Chapters 7.06 and 7.08 of the Folsom Municipal Code, as well as any costs for veterinary care incurred pursuant to Section 2.05. The SHELTER shall set, in accordance with the law, all fees, if any, it charges to the public for an Animal adoption.

ARTICLE FOUR-COLLECTION OF FEES

Section 4.02 Disposition of Funds. Any CITY licensing fees, impound fees, unaltered fees, boarding fees, and veterinary care expenses collected or received by SHELTER shall be accounted for separately and shall not be used to offset the Annual Payment relating thereto as may be required in this Contract. Any monies paid in owner-returned cases to the SHELTER for impoundment during the Redemption Period shall be accounted for separately by the SHELTER, but will not be used to offset the calculation of the Annual Payment. These funds shall be the property of the CITY and remitted to the CITY in accordance with this Contract.

Section 4.03 **Waiver of Impound Fees.** The CITY will allow flexibility to the SHELTER to waive impound fees for animals, if the owner agrees to sterilize their animal.

ARTICLE FIVE- COST OF SERVICES AND FEES

Section 5.01 **Fees Schedule.** The CITY and SHELTER agree to the following:

- (i.) During the first year of this Contract, January 1, 2018 to December 31, 2018, CITY will pay SHELTER an amount not to exceed sixty-four thousand eight hundred ninety-six and Zero/100s Dollars (\$64,896.00) and the SHELTER shall accept, at CITY's discretion, up to 400 Animals in this twelve (12) month period. Excluded from this count are any Animals brought to the SHELTER for end-of-life care only and Animals returned after placement or adoption.
- (ii.) During the second year of this Contract, January 1, 2019 to December 31, 2019, CITY will pay SHELTER an amount not to exceed sixty-four thousand eight hundred ninety-six and Zero/100s Dollars (\$64,896.00) and the SHELTER shall accept, at CITY's discretion, up to 400 Animals in this twelve (12) month period. Excluded from this count are any Animals brought to the SHELTER for end-of-life care only and Animals returned after placement or adoption.
- (iii.) During the third year of this Contract, January 1, 2020 to December 31, 2020, CITY will pay SHELTER an amount not to exceed sixty-seven thousand four hundred ninety-two and Zero/100s Dollars (\$67,492.00) and the SHELTER shall accept, at CITY's discretion, up to 416 Animals in this twelve (12) month period. Excluded from this count are any Animals brought to the SHELTER for end-of-life care only and Animals returned after placement or adoption.

Section 5.02 **Contract Fees.** The SHELTER agrees to bill the CITY the Annual Cost of Services and Fees in twelve equal monthly installments. City agrees to pay non-disputed invoices, net 45, from date of receipt of invoice. The City also agrees to pay SHELTER for each animal in excess of the yearly animal intake amounts as established in Section 5.01 as follows:

- (i.) During the first year of this Contract, January 1, 2018 to December 31, 2018, one hundred sixty-two and Zero/100s Dollars (\$162).
- (ii.) During the second year of this Contract, January 1, 2019 to December 31, 2019, one hundred sixty-two and Zero/100s Dollars (\$162).
- (iii.) During the third year of this Contract, January 1, 2020 to December 31, 2020, one hundred sixty-eight and Zero/100s Dollars (\$168).

Section 5.03 **Livestock.** The CITY agrees that the responsibility for seizing, securing, housing and disposing of livestock belongs to the CITY. In the event, for any reason, the CITY delivers livestock to the SHELTER which was seized in its jurisdiction by the duly appointed agents of

the CITY, the SHELTER shall be paid for actual expenses it incurs to feed, house, transport and dispose of such livestock in addition to any other amounts under this Contract. SHELTER agrees to abide by all applicable law in processing livestock hereunder.

Section 5.04 Rendering Services for Dead Animals. CITY shall be responsible for its own rendering. In the event SHELTER euthanizes any Animal delivered by CITY residents during its Redemption Period, SHELTER shall appropriately store the remains for up to five (5) business days at no cost to the CITY, during which the CITY shall collect the remains for disposal.

Section 5.05 Humane Investigations. Folsom Animal Services will respond to and investigate all humane cases. Humane investigations where the animal is removed from the home due to neglect, abuse, etc. and protective custodies where the Animal Services Officer has determined that the animal should be impounded due to the absence of a caretaker or the caretaker's inability to provide for the animal shall constitute special holdings and will be charged accordingly. All special holdings, including rabies quarantine, require a written release by the CITY. No animal held for humane investigation or protective custody shall have visitation by the owner unless otherwise authorized by the Animal Services Officer.

Humane cases and bite quarantine cases that require the impoundment of an animal that requires extended care or quarantine beyond the "redemption period" will be charged board at the rate of twenty-five and Zero/100s Dollars (\$25) per day per Animal. Animals held in protective custody will be charged board at the rate of twenty and Zero/100s Dollars (\$20) per day per Animal. Animals held for regular stay holds will be charged board at the rate of fifteen and Zero/100s Dollars (\$15) per day per Animal.

The SHELTER will make every attempt to collect impound fees from the animal owner at the time of redemption. If collected, the CITY will only be responsible for the remaining contractual balance. These fees will be paid to the SHELTER by the CITY in addition to the "Fees Schedule" as outlined in Section 5.01.

Section 5.06 Software. The SHELTER shall provide the CITY with full access to shelter software program, via internet connection or otherwise remotely available at the CITY offices, and rights to all CITY data contained therein in the event the SHELTER changes software vendors. The SHELTER shall provide the CITY a minimum of two (2) users access to the software program. The users shall be designated by the CITY. Such access shall at a minimum allow the designated CITY user to view and print and save all reports and databases related to the Contract, including, but not limited to, the status and disposition of all Animals deposited at the facility. CITY's share of the costs of the software shall be four hundred seventy-three and Zero/100s Dollars (\$473) per month. These fees will be paid to the SHELTER by the CITY in addition to the "Fees Schedule" as outlined in Section 5.01. The SHELTER shall provide the City with up to twenty hours training annually. When software program updates are to be implemented, the SHELTER shall provide the CITY advance notice and support to include training. The SHELTER shall ensure that technical support is available to the CITY during this contract period. Immediately upon termination of the contract, or upon the request by the CITY, the CITY shall be entitled to all data, files, documents, drawings, specifications, reports, estimates, summaries, and other such material and property of the CITY as may have been prepared or accumulated to date by the SHELTER in performing this contract. SHELTER will

be allowed to retain copies of all deliverables to the CITY. The CITY is responsible for notifying the SHELTER of any employee changes so the SHELTER can modify access to the software system.

Section 5.07 Report.

- (a) The SHELTER shall provide to the CITY, on or before the 20th day following each month during the term of this Contract, a report setting forth the following information for each Animal delivered by designees of the CITY, and its citizens, to the Facility:
 - (i) date delivered to the SHELTER;
 - (ii) source of delivery (name of Animal Services Officer, citizen, owner surrender);
 - (iii) type of Animal (cat, dog or other);
 - (iv) assigned identification number of Animal;
 - (v) duration of stay at the SHELTER for each Animal delivered by the CITY;
 - (vi) reason for impoundment if not a stray;
 - (vii) total number of Animals delivered to the SHELTER for the previous month.

- (b) The SHELTER shall also provide to the CITY a report of any livestock or wildlife delivered by the designees of the CITY, and its citizens to the Facility setting forth:
 - (i) the date of delivery;
 - (ii) the source of delivery (name of Animal Services Officer, citizen, owner surrender);
 - (iii) the reason for delivery;
 - (iv) the type of livestock or wildlife;
 - (v) assigned identification number of Animal;
 - (vi) any expenses incurred to date.

Section 5.08 Financial Records and Audit. SHELTER shall ensure that all information as it relates to number of Animals processed on behalf of the CITY, to include those impound fees or boarding fees, unaltered fees and licensed fees, as well as the name of any the person associated with the Animal, their address, the reason the Animal was relinquished, and the location where the Animal was acquired or originated from prior to being relinquish to the SHELTER, if known is accurate, updated, and reviewed on a daily basis. The SHELTER agrees to provide CITY full

access to these reports. The SHELTER's financial yearly report must be accessible by the CITY Manager of the CITY on a yearly basis. CITY reserves the right to conduct its own audit of the records of the SHELTER at any time it deems necessary for the limited purpose of verifying the Annual Payment and the Contract Fees relating thereto, the number of Animals licensed, and the number and ratio of Animals processed on behalf of the CITY compared to the total number of Animals processed by the SHELTER, the length of stay of each such Animal and the collection of fees for various services and items.

ARTICLE SIX- RABIES OBSERVATION

Section 6.01 Rabies Observation. The SHELTER agrees to accept from the CITY Animals for rabies observation and quarantine. Such Animals delivered for rabies observation shall be isolated for a period of not less than ten (10) days from the date of the bite or, in the case of a wild, stray or owner surrendered Animal, three (3) days if the CITY, in its sole discretion, decides to euthanize the Animal and send it to the Sacramento County Public Health Services for rabies testing. If such an Animal is delivered by a CITY resident, SHELTER shall immediately notify the Animal Services Officer of the CITY or his/her designee of such delivery. The SHELTER shall be responsible for the humane euthanasia, and storage. The CITY will be responsible for processing, transport, and delivery for testing of Animal carcasses for suspected rabies Animals. The SHELTER shall make available to the CITY, upon request, information about the disposition of any rabies suspected Animal. The CITY shall pay the SHELTER the appropriate fees for quarantine as identified in Section 5.05.

ARTICLE SEVEN- LEGAL HOLDS

Section 7.01 Legal Holds. In the event an Animal or livestock is being held by the SHELTER as a result of a cruelty seizure, criminal prosecution or other legal hold by the CITY, the CITY shall reimburse the SHELTER for any veterinarian invoices and medical bills incurred by the SHELTER until the Court awards the Animal or livestock to the CITY, orders it euthanized or orders it returned to its owner. In no event shall SHELTER incur more than Two Hundred Dollars (\$200.00) in veterinarian and/or medical bills per Animal under this Section without the prior written authorization of the CITY. The CITY shall not be liable for these costs in the event the Court orders the Animal or livestock owner to pay such costs and the same are paid within sixty (60) days of such order. If the fees are not paid by the Animal or livestock owner, after sixty (60) days, the CITY shall be liable for those fees and shall remit the same upon invoice by the SHELTER. In such instance, the SHELTER confers upon the CITY all rights and remedies it may have by law or equity to recover such fees and costs from the owner.

ARTICLE EIGHT-CITY REPRESENTATIONS AND OBLIGATIONS

Section 8.01 The CITY represents to the SHELTER that, as of the date of this Contract, the CITY requires rabies vaccination pursuant to Chapter 7.08 of the Folsom Municipal Code, and requires licensing of Animals pursuant to Chapter 7.06 of the Folsom Municipal Code.

ARTICLE NINE– SHELTER REPRESENTATIONS AND OBLIGATIONS

Section 9.01 **Hours of Operation.** The SHELTER shall keep its Facility open to the public within the guidelines set forth by law, under mandate or based on the operational needs of the SHELTER in accordance with the law.

Section 9.02 **Use of CITY funds.** SHELTER agrees that any monies it collects on behalf of CITY pursuant to the terms of this Agreement shall be handled in accordance with generally accepted accounting principles.

Section 9.03 **Residency Verification.** The SHELTER shall verify the residency of citizens depositing Animals to their facility through a valid CA driver's license, State issue ID, or other proof of Folsom residency, evidencing a City of Folsom address.

ARTICLE TEN - INSURANCE

Section 10.01 **Evidence of Insurance Coverage.** Prior to commencement of any work under this Contract, SHELTER shall provide evidence of insurance coverages for general liability, auto and statutory worker's compensation set forth in Exhibit "A" attached to this Contract, and shall further maintain such insurance coverage in effect during the term of this Contract.

CITY shall provide SHELTER an additional insured endorsement that extends the CITY's general liability insurance coverage to the SHELTER limited to coverage for the negligent acts of CITY employees while on SHELTER premises which result in actual damage to the SHELTER.

ARTICLE ELEVEN – INDEMNIFICATION

Section 11.01 **Indemnification.** SHELTER shall defend, indemnify, and save and hold harmless CITY, it's officers, agents, contractors, volunteers, elected and appointed officials, and employees from any claims, suits, or actions of every name, kind, and description brought forth, or on account of, injuries to or death of any person (including but not limited to workers and the public) or damage to property, resulting from or arising out of SHELTER's willful misconduct or negligent act or omission while engaged in the performance of obligations or exercise of rights created by this Contract, except those matters arising from CITY's sole active negligence.

CITY shall defend, indemnify, and save and hold harmless SHELTER, their officers, agents, contractors, volunteers, and employees from any claims, suits, or actions of every name, kind, and description brought forth, or on account of, injuries to or death of any person (including but not limited to workers and the public) or damage to property, resulting from or arising out of CITY's willful misconduct or negligent act or omission while engaged in the performance of obligations or exercise of rights created by this Contract, except those matters arising from SHELTER's sole active negligence.

The Parties intend that this provision shall be broadly construed within the limits of state law.

ARTICLE TWELVE - TERM

Section 12.01 **Term.** This Contract shall be for a term of three (3) years commencing as of the date of approval by the governing bodies of both parties. Both parties may adopt, by written agreement, an additional one year extension prior to the expiration date of this Contract. Either party may cancel this Contract at any time without penalty upon one hundred eighty (180) days written notice to the non-cancelling party. In the event of termination, the CITY shall pay those fees that accrue to the termination date and be refunded any credits that may accrue to the termination date.

ARTICLE THIRTEEN - DEFAULT

Section 13.01 It is expressly agreed by CITY and SHELTER that the defaults contemplated by this section apply to the administrative sections of the Contract and not to any Animal care or welfare requirements herein. Any default involving the care and/or welfare of the Animals shall be cured immediately.

Section 13.02 **SHELTER Default.** If SHELTER fails in any material term or condition of this Contract, including failing to obtain or comply with applicable state law requirements for performing services hereunder, SHELTER shall be in default of this Contract. Whenever CITY determines it's feasible, CITY will give SHELTER a reasonable amount of time to correct the default upon written notice as to the nature of the default and the reasonable time period within which to cure same.

If SHELTER is unable to timely cure a default, then CITY may, in its sole discretion, terminate this Contract and shall thereafter be excused from performing any further obligations under this Contract. In addition, if SHELTER fails in any material term or condition of this Contract, CITY, as its option, may terminate this Contract, and CITY may thereafter pursue its remedies available at law.

Section 13.03 **CITY Default.** If CITY fails in any material term or condition of this Contract and SHELTER is not in default, SHELTER, as its option, may terminate this Contract, and SHELTER may thereafter pursue its remedies available at law.

In the event the CITY fails to remit to the SHELTER the Contract Rate or any additional undisputed fees and expenses due hereunder, the CITY shall be in default. The SHELTER may, in its sole discretion, terminate this Contract for non-payment of undisputed fees if the CITY has not cured its default after sixty (60) days written notice.

ARTICLE FOURTEEN-NOTICE.

Section 14.01 **Notice.** Any notice sent under this Contract except as may be otherwise expressly required in this Contract shall be written and mailed by certified receipt requested, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the receiving party at the following:

To the SHELTER:
Sacramento Society for the Prevention of Cruelty to Animals (SSPCA)
Attn: Chief Executive Officer
6201 Florin Perkins Road
Sacramento, CA 95828
Telephone: (916) 383-7387
Facsimile: (916) 383-7062

To CITY:
City of Folsom Police Department
Lieutenant, Neighborhood Services Bureau
46 Natoma Street
Folsom, CA 95630
Telephone: (916) 351-3442

Section 14.02 Each party may change its address by written notice to the other party in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged or confirmed, and any communication so delivered in person shall be deemed to be given when received for by, or actually received by, the other party, as the case may be.

ARTICLE FIFTEEN-MEDIATION

Section 15.01 **Mediation.** Any dispute or claim in law or equity arising out of this Contract or any resulting transaction, including disputes or claims involving the parties to this Contract, their officers, agents or employees, shall be submitted to neutral, non-binding mediation prior to the commencement of litigation or any other proceeding before a trier of fact. The parties to the dispute or claim agree to act in good faith to participate in mediation, and to identify a mutually acceptable mediator. Both parties to the mediation agree to share equally in its cost. If the dispute or claim is resolved successfully through the mediation, the resolution will be documented by a written agreement executed by both parties. If the mediation does not successfully resolve the dispute or claim, the mediator shall provide written notice to the parties reflecting the same, and the parties may then proceed to seek an alternative form of resolution of the dispute or claim, including through a court of competent jurisdiction, in accordance with the remaining terms of this Contract and other rights and remedies afforded to them by law.

ARTICLE SIXTEEN-MISCELLANEOUS

Section 16.01 **Licenses, Permits, and Other Approvals.** SHELTER represents and warrants to CITY that it has all licenses, permits, qualifications and approvals of whatsoever nature legally required for SHELTER to perform the work described herein. SHELTER represents and warrants to CITY that SHELTER shall, at its sole cost and expense, obtain and/or keep in effect at all times during the term of this SHELTER any licenses, permits, and approvals which are legally required for SHELTER to perform the services under this Contract.

Section 16.02 **Records and Inspection.** SHELTER shall maintain records, books, documents and other evidence directly pertinent to the performance of work under this Contract in accordance with generally accepted accounting principles and practices. CITY shall have the right to access and examine such records, without charge, during normal business hours. CITY shall further have the right to audit such records, to make transcripts there from and to inspect all program data, documents, proceedings, and activities.

Section 16.03 **Attorneys' Fees.** In the event an action or proceeding is instituted by either party for the breach or enforcement of any provision of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and all litigation expenses, including, but not limited to expert's fees and disbursements.

Section 16.04 **Enforceability.** If any term or provision of this Contract is found to be void, voidable, invalid or unenforceable by a court of competent jurisdiction under the laws of the State of California, any and all of the remaining terms and provisions of this Contract shall remain binding.

Section 16.05 **Time.** All times stated herein, or in any other document called for under this Contract, are of the essence.

Section 16.06 **Binding.** This Contract shall bind and inure to the heirs, devisees, assignees and successors in interest of SHELTER and to the successors in interest of CITY in the same manner as if such parties had been expressly named herein.

Section 16.07 **Survivorship.** Any responsibility of SHELTER for warranties, insurance, indemnity, record-keeping or compliance with laws with respect to this Contract shall not be invalidated due to the expiration, termination or cancellation of this Contract.

Section 16.08 **Construction and Interpretation.** SHELTER and CITY agree and acknowledge that the provisions of this Contract have been arrived at through negotiation and that each party has had a full and fair opportunity to revise the provisions of this Contract and to have such provisions reviewed by legal counsel. Therefore, any ambiguities in construing or interpreting this Contract shall not be resolved against the drafting party. The titles of the various sections are merely informational and shall not be construed as a substantive portion of this Contract.

Section 16.09 **Waiver.** The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Contract shall not be deemed a waiver with respect to any subsequent default or other matter.

Section 16.10 **Severability.** The invalidity, illegality or unenforceability, of any provision of this Contract shall not render the other provisions invalid, illegal or unenforceable.

Section 16.11 **No Third Party Beneficiary.** It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to the CITY and SHELTER. Nothing contained in the Contract shall give or allow any claim or right of action whatsoever by any third party. It is the express intent of the CITY and the SHELTER that any such person or entity, other than the CITY or SHELTER, receiving benefits or services under this Contract shall be deemed as incidental beneficiary.

Section 16.12 **Non-Discrimination/Non-Preferential Treatment Statement.** In performing this Contract, the parties shall not discriminate or grant preferential treatment on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, and shall comply to the fullest extent allowed by law, with all applicable local, state, and federal laws relating to nondiscrimination.

Section 16.13 **Authority to Execute.** The person or persons executing this Contract on behalf of their respective agency warrant and represent that they have the authority to execute this Contract on behalf of their agency and further warrant and represent that they have the authority to bind their agency to the performance of its obligations hereunder.

Section 16.14 **Force Majeure.** Neither party shall be in default by reason of any failure in the performance of this Contract if such failure arises out of causes beyond its reasonable control. Such causes may include, but are not limited to, acts of God, acts of the public enemy, acts of government in either its sovereign or capacity, acts of the party whose performance is not sought to be excused, fires, flood, weather, epidemics, quarantine restrictions, strikes, freight embargoes, failure of transmission or power supply, mechanical difficulties with equipment which could not have been reasonably forecasted or provided for, or other causes beyond its sole control. The party so affected will resume performance as soon as practicable after the force majeure event terminates.

Section 16.15 **Amendment.** This Contract shall not be amended, modified, or otherwise changed unless in writing and signed by both Parties hereto.

Section 16.16 **Venue.** This Contract and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Contract shall be held exclusively in a state court in the County of Sacramento.

Section 16.17 **Entire Agreement.** This instrument and any attachments hereto constitute the entire agreement between CITY and SHELTER concerning the subject matter hereof and supersedes any and all prior oral and written communications between the Parties regarding the subject matter hereof.

END OF TEXT – SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed.

SACRAMENTO SPCA,
A California Corporation:

(If a corporation, must be signed by two officers of the
corporation per Corporations Code section 313.)

2/22/18
Date

94-1312342
Tax I.D. Number

Kenn Altine
Signature

Mike Oei
Signature

KENN ALTINE
Print Name

MIKE OEI
Print Name

CEO
Title

CFO
Title

CITY OF FOLSOM, A Municipal Corporation:

3-14-2018
Date

Evert W. Palmer
Evert W. Palmer, City Manager

ATTEST:

FUNDING AVAILABLE:

Christa Freemantle 3/14/2018
Christa Freemantle, City Clerk Date

James W. Francis 3/12/18
James W. Francis, Finance Director Date

ORIGINAL APPROVED AS TO CONTENT:

ORIGINAL APPROVED AS TO FORM:

Cynthia Renaud 3/06/2018
Cynthia Renaud, Chief of Police Date

Steven Wang 3/12/18
Steven Wang, City Attorney Date

NOTICE: SIGNATURE(S) ON BEHALF OF SHELTER MUST BE NOTARIZED.
A certificate of acknowledgment in accordance with the provisions of California Civil Code section 1189 must be attached for each person executing this agreement on behalf of shelter. This section provides, at part (b): "Any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the laws of the place where the acknowledgment is made."

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Sacramento)

On February 22, 2018 before me, Linda S. Salle, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Kenneth E. Altire and
Name(s) of Signer(s)
Michael Phillip Veerkamp Oei

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Linda S. Salle
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

EXHIBIT A
INSURANCE

NOTE: The word "Consultant" in this Exhibit refers to "Shelter" as the term is used in the Agreement/Contract to which this Exhibit is attached.

A. During the term of this Agreement, Consultant shall maintain in full force and effect at all times during the term of the contract, at its sole cost and expense, policies of insurance as set forth herein:

1. General Liability:

- a. General liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations liability.
- b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
- c. Claims-made coverage is not acceptable.
- d. The limits of liability shall not be less than:
 - Each occurrence: One Million Dollars (\$1,000,000)
 - Products & Completed Operations: One Million Dollars (\$1,000,000)
 - Personal & Advertising Injury: One Million Dollars (\$1,000,000)
- e. If a general aggregate limit of liability is used, the minimum general aggregate shall be twice the 'each occurrence' limit or the policy shall contain an endorsement stating that the general aggregate limit shall apply separately to the project that is the subject of the contract.
- f. If a products and completed operations aggregate limit of liability is used, the minimum products and completed operation aggregate shall be twice the 'each occurrence' limit or the policy shall contain an endorsement stating that the products and completed operations aggregate limit shall apply separately to the project which is the subject of the contract.
- g. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

2. Automobile Liability:

- a. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles.
- b. Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbol 1 (any auto).
- c. The limits of liability per accident shall not be less than:

Combined Single Limit

One Million Dollars (\$1,000,000)

- d. If Automobile Liability coverage, as required above, is provided by the Commercial General Liability form, the General Liability policy shall include an endorsement providing automobile liability as required above.
3. Workers' Compensation:
 - a. Workers' Compensation Insurance, with coverage as required by the State of California (unless the Consultant is a qualified self-insurer with the State of California), and Employer's Liability coverage.
 - b. Employer's Liability Coverage with a limit not less than \$1,000,000 per accident for bodily injury and disease.
 - c. Consultant shall sign and file with the City department responsible for this Agreement/Contract the Worker's Compensation Certificate contained in the Project Manual.
 4. Insurance Required in the Supplementary Conditions: Consultant shall be required to comply with all conditions as stipulated in the Standard Construction Specifications, any supplementary conditions and any special provisions as applicable.
 5. Professional Liability Insurance
If required, errors and omissions, malpractice or professional liability insurance with coverage of not less than \$1,000,000 per claim.
 6. Other Insurance Provisions:
 - a. The Consultant's General Liability and Automobile Liability policies shall contain, or be endorsed to contain, the following provisions:
 - i. The City, its officials, employees, agents and volunteers shall be covered and specifically named as additional insureds on a separate endorsement as respects liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied, or used by the Consultant, or automobiles owned, leased, hired, or borrowed by the Consultant in a form acceptable to the City Attorney.
 - ii. The Endorsement requirement may be satisfied with express provisions in the insurance policy(ies) which identifies any person or entity required to be included as an insured under the policy. A copy of the declarations page identifying the policy number, and pertinent provisions in the policy providing additional insured coverage shall be provided to the City.
 - iii. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents or volunteers.
 - b. For any claims related to the project, the Consultant's General Liability and Automobile insurance coverage shall be primary insurance in their coverage of the City and its officers, officials, employees, agents, or volunteers, and any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

- c. Any failure to comply with reporting or other provisions of the policies on the part of the Consultant, including breaches of warranties, shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
 - d. The Consultant's Workers Compensation and Employer's Liability policies shall contain an endorsement that waives any rights of subrogation against the City, its officers, officials, employees, agents, and volunteers.
 - e. Each insurance policy shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, non-renewed, or materially changed except after **30 days prior written notice** by certified mail has been given to the City. Ten days prior written notice by certified mail shall be given to the City in the event of cancellation due to nonpayment of premium.
7. Acceptability of Insurers: Insurance is to be placed with insurers with a **Bests' rating of no less than A:VII.**
 8. The Consultant shall furnish the City with Certificates of Insurance and endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this section, the Standard Specifications, Special Provisions and/or any Supplementary Conditions. **The Consultant shall furnish complete, certified copies of all required insurance policies, including original endorsements specifically required hereunder if requested.**
 9. The Consultant shall report, by telephone to the Project Manager within 24 hours, and also report in writing to the City within 48 hours, after Consultant or any Subcontractors or agents have knowledge of, any accident or occurrence involving death of or serious injury to any person or persons, or damage in excess of Ten Thousand Dollars (\$10,000) to property of the City or others, arising out of any work done by or on behalf of the Consultant as part of the contract.
 10. Such report shall contain:
 - a. the date and time of the occurrence,
 - b. the names and addresses of all persons involved, and
 - c. a description of the accident or occurrence and the nature and extent of the injury or damage.
 11. The City, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the contract by giving 30 days written notice.
 12. If the Consultant fails to procure or maintain insurance as required by this section, the Standard Specifications, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due the Consultant under the contract.
 13. Failure of the City to obtain such insurance shall in no way relieve the Consultant from any of its responsibilities under the contract.
 14. The making of progress payments to the Consultant shall not be construed as

relieving the Consultant or its Subcontractors of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.

15. The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.
16. In the event Consultant carries Excess Liability Coverage, the Excess Liability Coverage shall apply to any and all claims related to the project on a primary and non-contributory basis, and the City's insurance or self-insurance coverage shall be excess to the Consultant's Excess Liability Coverage.

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