



## Folsom City Council Staff Report

<b>MEETING DATE:</b>	12/10/2024
<b>AGENDA SECTION:</b>	Consent Calendar
<b>SUBJECT:</b>	Resolution No. 11310 - A Resolution Authorizing the City Manager to Execute a Cooperative Service Agreement with the United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services
<b>FROM:</b>	Public Works Department

### **RECOMMENDATION / CITY COUNCIL ACTION**

The Public Works Department recommends that the City Council pass and adopt Resolution No. 11310 - A Resolution Authorizing the City Manager to Execute a Cooperative Service Agreement with the United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services.

### **BACKGROUND / ISSUE**

The Public Works Department conducts regular and ongoing maintenance of the creek corridors throughout the city that fall within the city's jurisdiction and right of way. These activities can include removing excess, dead, and downed vegetation from the channels, removing debris and other potential obstructions from culverts and the overall creek corridors, and generally ensuring the creeks can convey storm flows and minimize risk to public health and safety.

One of the main sources of debris in the creek corridors comes from ongoing beaver activity as they knock down trees and other vegetation and utilize the materials to construct dams in the creeks. These beaver dams can result in localized flooding of the creek corridors, bike trails, and adjacent private properties and threaten public health and safety. To mitigate the effects of these beaver dams and resulting localized flooding, staff routinely knock down beaver dams and remove excess vegetation to try and limit the material available to the beavers. Additionally, staff coordinate with the California Department of Fish and Wildlife (CDFW) to

obtain depredation permits for beavers to further help reduce the damage these urban pests cause to the trees and creek corridors.

The city applies for a depredation permit from CDFW on an as-needed basis, and each permit identifies specific locations and specific durations of validity. The depredation permits identify the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Wildlife Services (WS) as the only authorized agent to trap and take the beavers.

Historically, the city had been able to coordinate with USDA APHIS-WS to perform the needed activities without having a cooperative service agreement in place; however, in spring of 2024, when staff reached out to the local USDA representative, they were informed that moving forward a cooperative service agreement was needed prior to proceeding with any work. Staff continues to regularly respond to calls for service to knock down beaver dams and remove excess vegetation and debris; however, without the ability to coordinate with the authorized trapper, the threat to public health and safety from localized flooding due to beaver activity continues to increase.

### **POLICY / RULE**

Per the Folsom Municipal Code, the City Council is the sole authority for entering into agreements between the City and another party.

### **ANALYSIS**

The cooperative service agreement provided by USDA APHIS-WS provides the framework for the purpose, authority, and responsibilities between the City of Folsom and USDA. The agreement would be valid for five years, beginning July 1, 2024, and ending June 30, 2029.

As staff continues to mitigate the ongoing beaver activity and localized flooding throughout the city and various creek corridors, the Public Works Department recommends entering into a five-year cooperative service agreement with USDA APHIS-WS.

### **FINANCIAL IMPACT**

There is no direct financial impact associated with this action at this time. Public Works Department staff will work with USDA APHIS staff annually to develop a sufficient scope of work and not-to-exceed fee to accomplish the desired work for the given year. The associated Work and Financial Plan for each fiscal year will be routed for approval as appropriate. It is anticipated that the annual not-to-exceed fee will be approximately \$25,000.

### **ENVIRONMENTAL REVIEW**

This action of entering into a cooperative service agreement is exempt from environmental review under the California Environmental Quality Act (CEQA). Any individual projects

undertaken through this agreement will obtain the necessary environmental permits on a project-by-project basis.

### **ATTACHMENTS**

1. Resolution No. 11310 - A Resolution Authorizing the City Manager to Execute a Cooperative Service Agreement with the United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services
2. Cooperative Service Agreement between the City of Folsom and the United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services

Submitted,

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Mark Rackovan, PUBLIC WORKS DIRECTOR

## ATTACHMENT 1

**RESOLUTION NO. 11310**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A  
COOPERATIVE SERVICE AGREEMENT WITH THE UNITED STATES  
DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION  
SERVICE WILDLIFE SERVICES**

**WHEREAS**, the City of Folsom is responsible for ongoing maintenance of the creek corridors throughout the City; and

**WHEREAS**, the City desires to mitigate ongoing nuisance beaver activity that can result in a threat to public health and safety in part by hiring authorized beaver trappers; and

**WHEREAS**, the California Department of Fish and Wildlife (CDFW) has regularly issued the City a depredation permit authorizing the City to utilize the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Wildlife Services (WS) as the authorized agent to trap and take beavers; and

**WHEREAS**, the USDA APHIS-WS has provided a cooperative service agreement for the requested activities; and

**WHEREAS**, any future costs will be documented in a Work and Financial Plan on an annual basis and routed for approvals as necessary; and

**WHEREAS**, the cooperative service 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 execute a cooperative service agreement with the United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services.

**PASSED AND ADOPTED** this 10<sup>th</sup> day of December 2024, by the following roll-call vote:

**AYES:** Councilmember(s):  
**NOES:** Councilmember(s):  
**ABSENT:** Councilmember(s):  
**ABSTAIN:** Councilmember(s):

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MAYOR

ATTEST:

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Christa Freemantle, CITY CLERK

## ATTACHMENT 2

## **COOPERATIVE SERVICE AGREEMENT**

**between**

**CITY OF FOLSOM (COOPERATOR)**

**and**

**UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)  
WILDLIFE SERVICES (WS)**

### **ARTICLE 1 – PURPOSE**

The purpose of this Cooperative Service Agreement is to maintain a biologically-sound Integrated Wildlife Damage Management (IWDM) program to assist in resolving beaver damage to private property, culverts, bridges, flood control channels, levees, and other man-made water management structures within the City of Folsom.

### **ARTICLE 2 – AUTHORITY**

APHIS-WS has statutory authority under the Acts of March 2, 1931, 46 Stat. 1468-69, 7 U.S.C. §§ 8351-8352, as amended, and December 22, 1987, Public Law No. 100-202, § 101(k), 101 Stat. 1329-331, 7 U.S.C. § 8353, to cooperate with States, local jurisdictions, individuals, public and private agencies, organizations, and institutions while conducting a program of wildlife services involving mammal and bird species that are reservoirs for zoonotic diseases, or animal species that are injurious and/or a nuisance to, among other things, agriculture, horticulture, forestry, animal husbandry, wildlife, and human health and safety.

### **ARTICLE 3 - MUTUAL RESPONSIBILITIES**

The cooperating parties mutually understand and agree to/that:

1. APHIS-WS shall perform services set forth in the Work Plan, which is attached hereto and made a part hereof. The parties may mutually agree in writing, at any time during the term of this agreement, to amend, modify, add or delete services from the Work Plan.
2. The Cooperator certifies that APHIS-WS has advised the Cooperator there may be private sector service providers available to provide wildlife damage management (WDM) services that the Cooperator is seeking from APHIS-WS.
3. There will be no equipment with a procurement price of \$5,000 or more per unit purchased directly with funds from the cooperator for use on this project. All other equipment purchased for the program is and will remain the property of APHIS-WS.
4. The cooperating parties agree to coordinate with each other before responding to media requests on work associated with this project.

## ARTICLE 4 - COOPERATOR RESPONSIBILITIES

Cooperator agrees:

1. To designate the following as the authorized representative who shall be responsible for collaboratively administering the activities conducted in this agreement.

Mark Rackovan,  
Public Works Director City of Folsom  
50 Natoma Street, Folsom CA 95630  
(916) 461-6711  
mrackovan@folsom.ca.us

2. To authorize APHIS-WS to conduct direct control activities as defined in the Work Plan. APHIS-WS will be considered an invitee on the lands controlled by the Cooperator. Cooperator will be required to exercise reasonable care to warn APHIS-WS as to dangerous conditions or activities in the project areas.
3. To reimburse APHIS-WS for costs, not to exceed the annually approved amount specified in the Financial Plan. If costs are projected to exceed the amount reflected in the Financial Plan, the agreement with amended Work Plan and Financial Plan shall be formally revised and signed by both parties before services resulting in additional costs are performed. The Cooperator agrees to pay all costs of services submitted via an invoice from APHIS-WS within 30 days of the date of the submitted invoice(s). Late payments are subject to interest, penalties, and administrative charges and costs as set forth under the Debt Collection Improvement Act of 1996.
4. To provide a Tax Identification Number or Social Security Number in compliance with the Debt Collection Improvement Act of 1996.
5. As a condition of this agreement, the Cooperator ensures and certifies that it is not currently debarred or suspended and is free of delinquent Federal debt.
6. To notify APHIS-WS verbally or in writing as far in advance as practical of the date and time of any proposed meeting related to the program.
7. The Cooperator acknowledges that APHIS-WS shall be responsible for administration of APHIS-WS activities and supervision of APHIS-WS personnel.
8. To obtain the appropriate permits for removal activities for species listed in the Work Plan and list USDA, APHIS, Wildlife Services as sub-permittees.

## **ARTICLE 5 – APHIS-WS RESPONSIBILITIES**

APHIS-WS Agrees:

1. To designate the following as the APHIS-WS authorized representative who shall be responsible for collaboratively administering the activities conducted in this agreement.  
Jeffrey B. Flores, State Director, California  
USDA, APHIS, Wildlife Services  
3419A Arden Way, Sacramento, CA 95825  
(916) 979-2675  
Jeffrey.B.Flores@usda.gov
2. To conduct activities at sites designated by Cooperator as described in the Work and Financial Plans. APHIS-WS will provide qualified personnel and other resources necessary to implement the approved WDM activities delineated in the Work Plan and Financial Plan of this agreement.
3. That the performance of wildlife damage management actions by APHIS-WS under this agreement is contingent upon a determination by APHIS-WS that such actions are in compliance with the National Environmental Policy Act, Endangered Species Act, and any other applicable federal statutes. APHIS-WS will not make a final decision to conduct requested wildlife damage management actions until it has made the determination of such compliance.
4. To invoice Cooperator monthly for actual costs incurred by APHIS-WS during the performance of services agreed upon and specified in the Work Plan. Authorized auditing representatives of the Cooperator shall be accorded reasonable opportunity to inspect the accounts and records of APHIS-WS pertaining to such claims for reimbursement to the extent permitted by Federal law and regulations.

## **ARTICLE 6 – CONTINGENCY STATEMENT**

This agreement is contingent upon the passage by Congress of an appropriation from which expenditures may be legally met and shall not obligate APHIS-WS upon failure of Congress to so appropriate. This agreement may also be reduced or terminated if Congress only provides APHIS-WS funds for a finite period under a Continuing Resolution.

## **ARTICLE 7 – NON-EXCLUSIVE SERVICE CLAUSE**

Nothing in this agreement shall prevent APHIS-WS from entering into separate agreements with any other organization or individual for the purpose of providing wildlife damage management services exclusive of those provided for under this agreement.

## **ARTICLE 8 – CONGRESSIONAL RESTRICTIONS**

Pursuant to Section 22, Title 41, United States Code, no member of or delegate to Congress shall be admitted to any share or part of this agreement or to any benefit to arise therefrom.

## **ARTICLE 9 – LAWS AND REGULATIONS**

This agreement is not a procurement contract (31 U.S.C. 6303), nor is it considered a grant (31 U.S.C. 6304). In this agreement, APHIS-WS provides goods or services on a cost recovery basis to nonfederal recipients, in accordance with all applicable laws, regulations and policies.

## **ARTICLE 10 – LIABILITY**

APHIS-WS assumes no liability for any actions or activities conducted under this agreement except to the extent that recourse or remedies are provided by Congress under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2401(b), and 2671-2680).

## **ARTICLE 11 – NON-DISCRIMINATION CLAUSE**

The United States Department of Agriculture prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. Not all prohibited bases apply to all programs.

## **ARTICLE 12 - DURATION, REVISIONS, EXTENSIONS, AND TERMINATIONS**

This agreement shall become effective on July 1, 2024 and shall continue through June 30, 2029 not to exceed five years. This Cooperative Service Agreement may be amended by mutual agreement of the parties in writing. The Cooperator must submit a written request to extend the end date at least 10 days prior to expiration of the agreement. Also, this agreement may be terminated at any time by mutual agreement of the parties in writing, or by one party provided that party notifies the other in writing at least 60 days prior to effecting such action. Further, in the event the Cooperator does not provide necessary funds, APHIS-WS is relieved of the obligation to provide services under this agreement.

In accordance with the Debt Collection Improvement Act of 1996, the Department of Treasury requires a Taxpayer Identification Number for individuals or businesses conducting business with the agency.

Cooperator's Tax ID No.: 94-6000334

APHIS-WS's Tax ID: 41-0696271

**CITY OF FOLSOM, A Municipal Corporation:**

\_\_\_\_\_  
Elaine Andersen, City Manager

\_\_\_\_\_  
Date

ORIGINAL APPROVED AS TO CONTENT:

ORIGINAL APPROVED AS TO FORM:

\_\_\_\_\_  
Mark Rackovan, Public Works Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Steven Wang, City Attorney

\_\_\_\_\_  
Date

**UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES**

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Jeffrey B. Flores, State Director, California  
USDA, APHIS, Wildlife Services  
3419A Arden Way, Sacramento, CA 95825

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Date

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Wendy Anderson, Western Regional Director  
USDA, APHIS Wildlife Services  
2150 Centre Avenue  
Bldg. B, Mail Stop 3W9  
Fort Collins, CO 80526

\_\_\_\_\_  
Date