



BOARD OF ANIMAL SERVICES COMMISSIONERS  
CITY OF LOS ANGELES

**REGULAR MEETING AGENDA**  
**Tuesday, October 13, 2015**  
**10:00 AM**

LOS ANGELES CITY HALL, ROOM 1060  
200 NORTH SPRING STREET  
LOS ANGELES, CALIFORNIA 90012

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DAVID ZAFT  
President

LARRY GROSS  
Vice-President

JENNIFER BRENT  
ROGER WOLFSON  
ALANA YAÑEZ

Sign language interpreters, assistive listening devices, or other auxiliary aids and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72 hours prior to the meeting you wish to attend. For information please call (213) 482-9597.

Si requiere servicios de traducción, favor de notificar a la oficina con 24 horas de anticipo.

**I. ADMINISTRATIVE APPEALS**

**1. Dangerous Animal Case: DA 154010 WV**

Respondent: Chris Pulos

Complaining Witness: Elizabeth de Sosa

West Valley Animal Care and Control: Lt. Susan Botta

**2. Dangerous Animal Case: DA 152067 WV**

Respondent: Gregory and Joanne Knauss

Complaining Witness: Cindy Kalman

West Valley Animal Care and Control: Lt. Susan Botta

**II. REGULAR COMMISSION MEETING**

**1. PUBLIC COMMENT PERIOD** - (Comments from the public on items of public interest)

within the Board's subject matter jurisdiction that are not on the Agenda; two minutes per speaker).

**Public Comments:** The Brown Act prohibits the Board and staff from responding to the speakers' comments. Some of the matters raised in public comment may appear on a future agenda.

## **2. COMMISSION BUSINESS**

**A.** Board Recognition of LAASEE Award Recipient (Action item; public comment limited to one minute per speaker):

a. Silvia Flores, ACT, North Central Animal Shelter

**B.** Approval of the Minutes for the Meeting of September 22, 2015 (Action item; public comment limited to one minute per speaker).

**3. ORAL REPORT OF THE GENERAL MANAGER** (Public comment limited to one minute per speaker).

**4. COMMISSIONERS' ORAL REPORTS AND FUTURE AGENDA ITEMS** (Public comment limited to one minute per speaker).

## **5. DISCUSSION ITEMS**

**A.** Proposal to Modify Holding Period for Dogs Admitted After Owner Has Died (Public comment limited to one minute per speaker)

## **6. BOARD REPORTS**

**A.** Staff Oral Update on Department Response to Animal Cruelty Concerns Relating to Kapparat (Public comment limited to one minute per speaker)

**B.** Staff Oral Report on One-Year Renewal of Contract with Best Friends to Operate the Mission Hills Animal Shelter (Action item; public comment limited to two minutes per speaker)

**C.** Board Report on Staff Proposal to Purchase Two X-Ray Units for Shelters That Do Not Have Them (Action item, public comment limited to two minutes per speaker)

## **7. ADJOURNMENT**

Next Commission Meeting is scheduled for 7:00 p.m., October 27, 2015, at the West Los Angeles Animal Shelter, 11361 Pico Boulevard, Los Angeles, California 90064.

**AGENDAS** - The Board of Animal Services Commissioners (Board) meets regularly every second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Tuesday of each month at 10:00 A.M. Regular Meetings are held at City Hall, 200 North Spring Street, Room 1060, in Los Angeles, CA 90012. Evening Meetings are held in various locations throughout the City, from 7:00 to approximately 9:30 P.M. The agendas for Board meetings contain a brief general description of those items to be

considered at the meetings. Board Agendas are available at the Department of Animal Services (Department), Administrative Division, 350 South Grand Avenue, 45th Floor, Suite 4501, Los Angeles, CA 90071. Board Agendas may also be viewed on the 2<sup>nd</sup> floor Public Bulletin Board in City Hall East, 200 North Main Street, Los Angeles, CA 90012. Internet users may also access copies of present and prior agenda items, copies of the Board Calendar, MP-3 audio files of meetings as well as electronic copies of approved minutes on the Department's World Wide Web Home Page site at <http://www.laanimalservices.com/CommissionAgendas.htm>

Three (3) members of the Board constitute a quorum for the transaction of business. Some items on the Agenda may be approved without any discussion.

The Board Secretary will announce the items to be considered by the Board. The Board will hear the presentation on the topic and gather additional information from Department Staff. Once presentations have finished, the Board President will ask if any Board Member or member of the public wishes to speak on one or more of these items. Each speaker called before the Commission will have one (1) minute to express their comments and concerns on matters placed on the agenda. (For certain agenda items, speakers will have two (2) minutes.)

**PUBLIC INPUT AT BOARD MEETINGS** – **Public Participation on Agenda Items.** Members of the public will have an opportunity to address the Board on agenda items after the item is called and before the Board takes action on the item, unless the opportunity for public participation on the item was previously provided to all interested members of the public at a public meeting of a Committee of the Board and the item has not substantially changed since the Committee heard the item. When speaking to an agenda item other than during Public Comment (see Public Comment below), the speaker shall limit his or her comments to the specific item under consideration (California Government Code, Section 54954.3).

**Public Comment.** The Board will provide an opportunity for public comment at every regular meeting of the Board. Members of the public may address the Board on any items within the subject matter jurisdiction of the Board as part of Public Comment.

**Speaker Cards.** Members of the public wishing to speak are to fill out one speaker card for each agenda item on which they wish to speak and present it to the Board secretary **before** the item is called.

**Time Limit for Speakers.** Speakers addressing the Board will be limited to one (1) minute of speaking time for each agenda item except during general public comment period which is limited to two (2) minutes per speaker. (For certain agenda items, speakers will have two (2) minutes each.). The Chairperson, with the approval of a majority of the Board, may for good cause extend any speaker's time by increments of up to one (1) minute.

**Brown Act.** These rules shall be interpreted in a manner that is consistent with the Ralph M. Brown Act, California Government Code Section § 54950 et seq.

**STANDARDS OF CONDUCT.** Speakers are expected to behave in an orderly manner and to refrain from personal attacks or use of profanity or language that may incite violence.

All persons present at Board meetings are expected to behave in an orderly manner and to refrain from disrupting the meeting, interfering with the rights of others to address the Board and/or interfering with the conduct of business by the Board.

In the event that any speaker does not comply with the foregoing requirements, or if a speaker does not address the specific item under consideration, the speaker may be ruled out of order, their speaking time forfeited and the Chairperson may call upon the next speaker.

The Board, by majority vote, may order the removal from the meeting of any speaker or audience member continuing

to behave in a disruptive manner after being warned by the Chairperson regarding their behavior. Section 403 of the California Penal Code states as follows: "Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting that is not unlawful in its character, other than an assembly or meeting referred to in Section 302 of the Penal Code or Section 18340 of the Elections Code, is guilty of a misdemeanor."

**VOTING AND DISPOSITION OF ITEMS** – Most items require a majority vote of the entire membership of the Board (3 members). When debate on an item is completed, the Board President will instruct the Secretary to "call the roll". Every member present must vote for or against each item; abstentions are not permitted unless there is a Conflict of Interest for which the Board member is obliged to abstain from voting. The Secretary will announce the votes on each item. Any member of the Board may move to "reconsider" any vote on any item on the agenda, except to adjourn, suspend the Rules, or where an intervening event has deprived the Board of jurisdiction, providing that said member originally voted on the prevailing side of the item. The motion to "reconsider" shall only be in order once during the meeting, and once during the next regular meeting. The member requesting reconsideration shall identify for all members present the Agenda number and subject matter previously voted upon. A motion to reconsider is not debatable and shall require an affirmative vote of three members of the Board.

When the Board has failed by sufficient votes to approve or reject an item, and has not lost jurisdiction over the matter, or has not caused it to be continued beyond the next regular meeting, the issue is again placed on the next agenda for the following meeting for the purpose of allowing the Board to again vote on the matter.



**BOARD OF  
ANIMAL SERVICES  
COMMISSIONERS**

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PRESIDENT

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COMMISSIONERS

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ALANA YAÑEZ

# City of Los Angeles

CALIFORNIA



**ERIC GARCETTI**  
MAYOR

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GENERAL MANAGER

DANA H. BROWN  
ASSISTANT GENERAL MANAGER

DR. JEREMY PRUPAS  
CHIEF VETERINARIAN

## NOTIFICATION OF ADMINISTRATIVE APPEAL HEARINGS

To Be Held:

**Tuesday, October 13, 2015, at 10:00 A.M.**

**City Hall  
200 North Spring Street, 10<sup>th</sup> Floor, Room 1060  
Los Angeles, CA 90012**

This serves as formal notice pursuant to Section § 53.18(q) 4 of the Los Angeles Municipal Code (LAMC) to the following parties and witnesses in the appeal(s) listed below:

1. **Dangerous Animal Case: DA 154010 WV**  
**Respondent:** Chris Pulos  
West Valley Animal Care and Control: Lieutenant Susan Botta  
Complaining Witness: Elizabeth de Sosa
2. **Dangerous Animal Case: DA 152067 WV**  
**Respondent:** Gregory and Joanne Knauss  
West Valley Animal Care and Control: Lieutenant Susan Botta  
Complaining Witness: Cindy Kalman

This hearing will not be rescheduled, except for good cause.

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities. Sign Language interpreters, assistive listening devices, or other auxiliary aids and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72 hours prior to the meeting you wish to attend.

For additional information, please refer to the Board's "Rules and Procedures for Appeals", or contact the Department of Animal Services at (213) 482-9558, or visit the Department's website: <http://www.laanimalservices.com/>.

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BOARD OF ANIMAL SERVICES COMMISSIONERS  
CITY OF LOS ANGELES



MINUTES

TUESDAY, September 22, 2015 at 10:00 AM

LOS ANGELES CITY HALL, ROOM 1060  
200 NORTH SPRING STREET  
LOS ANGELES, CALIFORNIA 90012

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Audio MP-3 Recording is available at [www.laanimalservices.com](http://www.laanimalservices.com)

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David Zaft, President  
Larry Gross, Vice-President  
Jennifer Brent  
Roger Wolfson  
Alana Yañez

Meeting called to order at 10:05 p.m. Commissioners present were Zaft, Gross and Brent and Wolfson arrived late. Commissioner Yañez arrived at 10:15. Also present Los Angeles Animal Services (LAAS) Board Secretary, Rita Moreno; General Manager, Brenda Barnette; Assistant General Manager (AGM), Dana Brown; and Assistant City Attorney (ACA) Dov Lesel.

Commissioner Zaft opened the meeting and provided an overview of the meeting agenda. Commissioner Gross opened the administrative appeal hearings.

**I. ADMINISTRATIVE APPEALS**

**1. Dangerous Animal Case: DA 152023 EV (heard second)**

Respondent: Jessica Brito  
Complaining Witness: Silvia Vasquez  
East Valley Animal Care and Control: Captain Wendell Bowers

Testimony was taken from the Respondent, Jessica Brito. The Complaining Witness, Silvia Vasquez, was not in attendance. The Commissioners asked questions and noted that the Respondent's dog "**Badger**" has gotten out in the past, and that mail delivery has been suspended for the Respondent and neighbors.

**Commissioner Brent** made a motion to find that the evidence supports the decision of the General Manager, and upheld the revocation of the license for **Badger** (A1540735). The motion was seconded by **Commissioner Zaft** and was approved by a vote of 5-0.

**2. Dangerous Animal Case: DA 151022 WV (heard last)**

Respondent: Joseph Bailey and Evelyn McInnes  
Complaining Witness: Erika Moore  
West Valley Animal Care and Control: Lt. Susan Botta

Testimony was taken from the Respondent, Joseph Bailey. The Complaining Witness, Erika Moore, was not able to attend, but submitted written comments. The Commissioners asked questions and noted that the Respondent is unable to maintain and control the dog "**Lobo**."

**Commissioner Zaft** made a motion to find that the evidence supports the decision of the General Manager, and upheld the revocation of the license for **Lobo** (L15-454815). The motion was seconded by **Commissioner Brent** and was approved by a vote of 5-0. **Commissioner Wolfson** asked about the ability of the Board to waive the three year

penalty if a respondent is able to acquire a more appropriate animal. **ACA Lesel** responded that the Board does not have the authority, but that the respondent can reach out to the Department and the GM has the ability to shorten the period of time. The Respondent asked about the dog "Sweetie" and was informed that both dogs would be held for a period of 45 days before being available for adoption.

**3. Dangerous Animal Case: DA 153010 EV** (heard first)

Respondent: William Thompson

Complaining Witness: Matthew Villarrbal and Elaine Rodriguez

East Valley Animal Care and Control: Captain Wendell Bowers

Testimony was taken from the Respondent's Attorney, Marla Tauscher. The Complaining Witnesses, Matthew Villarrbal and Elaine Rodriguez, were not in attendance. The testimony indicated that notice was not provided within specified time and that the alleged incident was never corroborated. Commissioners noted procedural issues, lack of evidence and the statement that the dog had been provoked. **Commissioner Gross** stated being particularly disturbed by the requirement of obtaining permitted housing prior to releasing "**Coco**," and asked how long the dog had been tethered. **GM Barnette** added that short term tethering is allowed for homeless.

**Commissioner Brent** made a motion to find that the evidence does not support the decision of the General Manager, and overturned the revocation of the license for **Coco** (L15-465551). The motion was seconded by **Commissioner Yañez** and was approved by a vote of 5-0.

## **II. REGULAR COMMISSION MEETING**

**1. PUBLIC COMMENT** (taken out of order after Item II.2.)

**Lola Kay:** Stated that she called Animal Services for assistance regarding a Kapparot related incident, but did not receive assistance; spent the night in jail for trespassing private property to take pictures. **Nicolas Tomas:** Stated that Kapparot is going underground; saw four or five battery cages and chickens don't have water or food; asked for help and sent an email. **Phyllis Daugherty:** Questioned why there was no response for animal cruelty; discussed unprepared dog owners and the responsibility of property owners. **Andrew Brown:** Stated that stray underage dogs and kittens are immediately sent to fosters, but they are potentially owned and can't be found because they are not listed on the website; there should be information on the animal in the shelter so that they can be found. **Jonathan Klein:** Stated that the way birds are held during the ritual may be a cruelty issue and not protected by 1<sup>st</sup> Amendment; suggested that the conduct of ritual should be monitored by Animal Services. **Ana:** Stated she went to the location at 5:00 a.m. and heard the shrill of birds; asked for help but was denied assistance, and LAPD Officers were aggressive.

**Commissioner Zaft** stated that the Commission will be getting a report back on the Kapparot issue.

**2. COMMISSION BUSINESS** (taken out of order after Item I.)

**A. Board Recognition of LAASEE Award Recipients** (Action Item; Public comment limited to one minute per speaker):

- i. Veronica Perry, ACT, East Valley

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- ii. Sylvia Flores, ACT, North Central (tabled until next meeting)
- iii. Patricia Kellogg, ACT Supervisor, West L.A.

**Commissioner Wolfson** discussed the purpose of the LAASEE Awards and requested that nominating Commissioners share a few words about their respective nominees. **Commissioner Gross** provided background information on and the basis for his nomination of ACT Veronica Perry. **Commissioner Brent** provided background information on and the basis for his nomination of ACT Spvs. Patricia Kellogg. ACT Perry and ACT Spvs. Kellogg each shared some remarks about their work to support Los Angeles' animals.

**Commissioner Brent** made a motion to approve the LAASEE Award for ACT Veronica Perry and ACT Supervisor Patricia Kellogg and **Commissioner Wolfson** seconded. Motion carried 5 - 0.

- B. Distribution of Los Angeles City Service Pins (Public comment limited to one minute per speaker):**
- i. Nashaat Eskander, Vet Technician, North Central
  - ii. Shawn Colon, ACT Supervisor, West Valley
  - iii. Patricia Ott, ACT Supervisor, West Valley

**Cmdr. Dedeaux** shared city service biographical information on each recipient. The Commissioners thanked and commented on the recipients.

Public Comment

**Phyllis Daugherty:** Thanked the staff and that all who work in animal services and control worldwide deserve recognition; shared experience with staff.

- C. Approval of Minutes for September 8, 2015. (taken out of order after Item II.1.)**

Public Comment  
None

**Commissioner Gross** moved to approve the minutes of September 8, 2015, and **Commissioner Brent** seconded. The motion passed 4 – 0 - 1.

**3. ORAL REPORT OF THE GENERAL MANAGER (Tabled until next meeting)**

**4. COMMISSIONERS' ORAL REPORTS AND FUTURE AGENDA ITEMS**

**Commissioner Wolfson:** Asked for a report on response to Kapparot issue; went to Best Friends' facility in Utah and recommended others visit; future report on taking breeds off of kennel cards because some landlords don't allow certain breeds – we don't know breed for certain; discussion on having dogs wear licenses in public; discussion on 2<sup>nd</sup> animal adopted at ½ price; pilot program with one shelter open in evening hours; discussion on intake of animals when all beds are full – better chance if we say “no” than taking them in; agreed that all animals in shelters need to be publicized on website.

**Commissioner Brent:** Attended “More than a Cone” event at the Autry, with cones used by animals who have had surgery turned into art work – proceeds went to Best Friends and Kitten Rescue; mentioned that report on department vacancies can be once

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a month or couple of months, and can be part of GM report; would like agenda item on pocket pets and that ACT be trained on how to care for them.

**Commissioner Zaft:** Passed.

**Commissioner Yañez:** Would like a policy discussion on having Canvassers take vouchers door-to-door; revisit personal property hold policy in instances when dog owner passes away and confirmation needed from Coroner.

**Commissioner Gross:** Mentioned several emails received on Kapparat issue; received response from Cmdr. Salazar that a chicken was confiscated.

Public Comment

**Andrew Brown:** Recommended providing "mixed breed" as an option on kennel cards.

## 5. Discussion Items

### A. Status of Hiring and Number of Filled and Vacant Positions

**AGM Brown** stated that information is as of 9/19/15: There are 27 vacancies in the department which includes 1 - Accountant II (hired and starting 10/5), 2 – ACTs (1 is vacant because ACT is on an emergency appointment to a different class, so position will not be back-filled until his promotion is made regular, and the 2<sup>nd</sup> just became vacant based on a 1014 accommodation), 20 - ACOs including the 12 from FY 2015-16 budget (waiting for the civil service list from Personnel), 2 - District Supervisors (will be filled when new AGM is hired), 1 - Sr. ACO II (will be offered as a pay grade advancement), and 1 - Vet Technician (being held to fund a sub-authority in the ACT Supervisor class).

**Commissioner Yañez** asked if the 12 Canvassers have been hired. **AGM Brown** responded negatively, the 12 positions are ACTs. **Commissioner Zaft** clarified that there were 15 part-time Canvassers in the previous year and that only two have been hired. **Tammy Watson** of the Personnel Department stated that there 12 positions, five have been hired and background checks are being conducted on three. **Commissioner Yañez** asked if any Canvassers are bilingual and whether they use city vehicles. **Tammy Watson** responded that she will find out and let the department know, and that Canvassers use their own vehicle and are reimbursed for mileage. **Commissioner Brent** asked about the two new District Supervisor positions and the new AGM; asked about time line for filling the 20 ACO positions. **AGM Brown** responded that there are now two AGM positions and that the District Supervisors will be hired by the new AGM; August written exam results have not been published and that the next exam will be held on October 3 since application for the position is continuous; based on limited number of people tested, there should be eight on board in January. **Commissioner Yañez** asked how long it takes to get the test results. **AGM Brown** responded that it is an extensive process and it will get done soon.

## 6. Board Reports

### A. Report Back on Fleet Allocation and Vehicles Used by Other Jurisdictions to Explore Methods to Make Trucks and Vans Safer for Animals

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**Commander Mark Salazar** and **Animal Control Officer Ernesto Poblano** provided a summary of the board report.

**Commissioner Gross** asked for clarification on the temperature readings. **Cmdr. Salazar** responded that a gage is used that takes an average of the temperature reading inside the vehicle. **Commissioner Gross** asked about the procedures for the oversight – on paper but how do we insure animals are not being left in vehicles, will someone check. **Cmdr. Salazar** responded that vet staff will communicate if an animal seems like it was left in a vehicle too long; supervisors will not check, but vehicle will be checked for maintenance regularly. **ACO Poblano** responded that they are working with Fleet Services to check air conditioner units and blowers prior to it going out on the field. **Commissioner Gross** asked when five new vehicles will be arriving. **Cmdr. Salazar** responded that it could be next week. **ACO Poblano** added that vehicles are custom made for LAAS and two should arrive in the next two weeks, and a two more in 90 days. **Commissioner Zaft** asked if it would be a mix of the truck and van chassis, and whether staff would have the chance to test them before ordering the next 12. **Cmdr. Salazar** responded that it will be a mix. **Commissioner Yañez** asked if we will be phasing out the 12 type-3 vans. **Cmdr. Salazar** responded that when we get new vehicles we have to exchange them out for older vehicles, so we are not adding to the fleet. **ACO Poblano** added that there are animal control vehicles that are 15 years old and have to go first. **Commissioner Yañez** noted that it is a safety issue. **Cmdr. Salazar** responded that he will follow up with Fleet Services on this issue as well as the additional vehicles needed for new ACOs. **Commissioner Zaft** noted that of the 12 new vehicles, only two are ARVs and the rest are used by permits, licensing and things that don't transport animals. **Cmdr. Salazar** responded affirmatively and that three of them are in field districts where they are able to be used for animals if an ARV is down. **ACO Poblano** added that given the investment made in the vans, they would look at adjustments to make them safe for the animals. **Commissioner Yañez** stated that she is not comfortable with even two being used as ARVs in the hot weather; asked if they can be traded out to use type-1 or type-2 vehicles. **ACO Poblano** responded that the three vans would be placed in shelters where the temperatures are lower. **Commissioner Yañez** stated it gets hot everywhere. **Cmdr. Salazar** responded that those vehicles would be used by sections where animals don't need to be transported; Canvassers may be assigned those vehicles. **Commissioner Yañez** asked whether the Board should set policy on the use of vehicles. **Commissioner Zaft** noted that the incident occurred three years ago and that the vehicles were moved out of the transport service; multiple animals were picked up and not brought in; inherited vehicles will be phased out. **Cmdr. Salazar** responded that due to department needs, it is difficult to take vehicles out of service. **Commissioner Yañez** requested that a conversation with GSD take place to prioritize dangerous vehicles over old vehicles and a report back on outcome. **Commissioner Zaft** asked for a follow-up report when the new vehicles come in and the type-2 vehicles are tested. **Cmdr. Salazar** responded that with the cooler months, he will come back with a follow-up report on the first item. **Commissioner Brent** asked whether there is a maintenance schedule for GSD to make sure vehicles are in optimal condition. **ACO Poblano** responded every three months of 3,000 miles. **Commissioner Brent** asked if air conditioner can be left on when Officer leaves vehicle. **Cmdr. Salazar** responded that the blower runs with type-1 vehicles (fiberglass) whether the vehicle is on or off; type-2 vehicles (metal compartments) air conditioning runs only when the vehicle is running, but has a



compressor air unit that will continue to blow air through the compartment; air conditioning in van cab has to be on for the back air to stay on, it can be left on and locked, but not recommended. **ACO Poblano** added that other agencies have a new system where they can leave the car running and take the keys with them, and will be looking into it in the future. **Commissioner Brent** asked about the height for loading and whether new vehicles will be low enough. **ACO Poblano** responded that it is difficult to know, but they will have a ramp built into them; two truck chassis will have stairs. **Commissioner Brent** asked about emergency breakdown situations and the support available. **ACO Poblano** responded that there is an after-hours mechanic for the city and that if animals are involved, that another vehicle would be dispatched to transport. **Commissioner Brent** asked if there was a need for heat on cold days. **ACO Poblano** responded he will look into it and that vents on new vehicles can be closed. **Commissioner Zaft** noted that 35 out of 36 or 37 ARVs are 10 years or older – requested that staff push for more new vehicles; wants to get results of temperature tests for type-2 vehicles; asked about fiberglass vs. insulated metal for new vehicles. **Cmdr. Salazar** responded that fiberglass cages are no longer being manufactured, and **ACO Poblano** added that insulated metal had a lower temperature reading than fiberglass on testing. **Commissioner Zaft** stated that new vehicles will not have air conditioning or chillers; asked whether we will explore having that in the future. **Cmdr. Salazar** responded affirmatively. **Commissioner Zaft** stated the vehicles do not have thermometers, asked how Officers can know the readings. **Cmdr. Salazar** responded that it is the responsibility of the Officer to make sure it's safe to transport the animal. **Commissioner Zaft** asked whether the blowers will be the same in the new vehicles. **ACO Poblano** responded that blowers are not being used because compressed air is hotter, using an exhaust system that sucks the air out of the compartment; perforations in the upper walls will allow for greater air flow. **Commissioner Brent** asked where the new vehicles will be distributed; suggested that each district get to test the new vehicles to provide input. **Commissioner Zaft** stated that it has not been determined yet. **Commissioner Zaft** asked about a dog that died this year. **Cmdr. Salazar** responded that it did not happen. **Commissioner Gross** asked whether vehicles have a communication system. **Cmdr. Salazar** responded that base units in vehicles are very expensive; new digital radio system received this year; new Chameleon application with iPhones pilot program being used. **Commissioner Zaft** stated that Board would support funding to test upgrades for vehicles.

#### Public Comment

**Phyllis Daugherty:** Stated that the Board is obsessing with the vans and clarified staff member involved had come off nights and wasn't trained on how vans worked; stated vans work and can be modified; asked how new vehicles will be tested; 12 new vehicles will not come until next fiscal year.

**Commissioner Zaft** asked how new vehicles will be tested; clarification on the arrival of the 12 new ones and where the budget comes from. **ACO Poblano** responded that they will be taken to each district to test; **Cmdr. Salazar** responded that will start working on order after shipment of first five and that funding comes from GSD.

- B. Board Report Requesting Authority to Issue a Request for Proposals for the Provision of Programs and Services at Mission Hills and/or Jefferson Park Animal Shelter

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**AGM Brown** summarized the types of services described in the scope of work in the draft RFP for the continued operation of the Mission Hills animal shelter with the services currently being provided, and the possible programs to be implemented at the Jefferson Park animal shelter; indicated that further revisions provided by the City Attorney will be made and that further review by the CAO and CLA are pending; the CAO will release the RFP; requested approval to move forward with the release of the RFP to obtain proposals for the operation of these two animal shelters.

**Commissioner Zaft** clarified that the goal for the Mission Hills shelter is to continue great work being done, and that we are open to proposal for Jefferson Park. **GM Barnette** responded that the Controller's audit found that more animals are euthanized in the south part of the City due to space. **Commissioner Zaft** noted that on page 7, Section C, it should read Jefferson Park; recommended that it be made clear that proposals are not limited to the possible services listed in the RFP. **Commission Wolfson** asked about the timeline. **GM Barnette** responded that the new Mission Hills contract will begin after the conclusion of the new Best Friends amendment; there are needed facility upgrades at Jefferson Park that will be addressed at the mid-year budget through the PAW Committee and City Council; GSD is currently receiving bids to upgrade the facility. **Commissioner Wolfson** asked whether a possible new operator could be tasked with the facility upgrades in order to move more quickly. **ACA Lesel** responded that for substantial upgrades, most organizations would require a longer lease than what is being offered by the city; stated that the two facilities are not dependent on each other. **AGM Brown** stated that a bidder's conference will be held to clarify and answer questions. **Commissioner Gross** asked who bears the cost of the upgrades. **GM Barnette** responded that funds will be requested from the City Council. **Commissioner Brent** asked how outreach will be conducted. **GM Barnette** responded that the city has an online posting system (LABAVN) and that the RFP will be sent to organizations. **Commissioner Zaft** suggested that potential proposers be given sufficient time to respond. **Bernyce Hollins** of the CAO added that GSD provided an outdated preliminary estimate of \$450,000 for capital improvements (infrastructure: building systems, roofing, air conditioning, code upgrades), but will provide an updated one; currently conducting an asset inventory to better utilize city facilities; once new cost estimate is obtained (due November/December), a funding plan will be developed to address immediate needs, subject to the Mayor and City Council consideration; operators are expected to handle ongoing costs for tenant improvements. **Commissioner Zaft** requested an informal report back be provided with updated assessment.

#### Public Comment

**Phyllis Daugherty:** Stated that the South L.A. annex has some difficult issues in terms of housing animals on a long term basis, but has a great spay / neuter clinic; suggested moving animals there for an adoption center – money makers.

**Commissioner Gross** moved to authorize the issuance of a Request for Proposals for the Provision of Programs and Services at Mission Hills and/or Jefferson Park Animal Shelter. **Commissioner Yañez** seconded and the motion passed 5 - 0.

#### C. Animal Welfare Trust and Animal Sterilization Fund Balances

Please join us at our website: [www.LAAnimalservices.com](http://www.LAAnimalservices.com)

**Commissioner Zaft** asked whether there were any questions and none were noted; suggested having a more in depth discussion the next time this item is on an agenda at City Hall.

Public Comment  
None

## **7. ADJOURNMENT**

**Commissioner Brent** made a motion to adjourn the meeting and **Commissioner Yañez** seconded. Motion passed 5 - 0.

Meeting ended at 1:05 p.m.

To: Board of Animal Services Commissioners  
CC: Brenda Barnette  
From: Marc Peralta, Executive Director, Best Friends Animal Society - Los Angeles  
Date: September 8, 2015  
Re: Best Friends Animal Society – Los Angeles Report of Progress vs Contract

### **Background for Best Friends in LA:**

In 2011, more than 23,000 pets perished in Los Angeles animal city shelters. This number represented a painfully low save rate of only 57.7%\* of the animals who entered the city's six city shelters. Clearly, something needed to be done to end the needless killing of L.A.'s homeless pets, but the problem was deep-seated and broad in scope and thus would demand an innovative, multifaceted, and far-reaching solution.

Since 1991, Best Friends Animal Society had been cultivating a partnership with the City of L.A. and forming working relationships with animal-welfare advocates throughout the city. These advocates not only included municipal officials and respected animal groups, but also celebrities and local volunteers. Best Friends continued to work steadily alongside these interested parties to build an infrastructure that would reliably save shelter pets, but it was clear that a far more cohesive and strategic plan – indeed a whole movement – was needed. And that movement would have to bring about measurable results and finally get the attention of the community.

### **Background for Best Friends at NE Valley Facility:**

The idea of No-Kill Los Angeles (NKLA) had been germinating for years: an initiative of Best Friends Animal Society, a marketing campaign, and an ever-growing coalition of organizations and individuals passionate about putting an end to the killing of homeless pets in Los Angeles shelters. In 2012, following more than a year of planning with Brenda Barnette and animal welfare stakeholders, this vision would finally become a reality.

After two decades of involvement in the Los Angeles community, the time and conditions were right for this lifesaving effort. In 2010, LAAS cleared a path for NKLA when it brought Brenda Barnette on board as general manager. As a no-kill advocate, Brenda became an immediate partner with Best Friends, reaching out for help in making LAAS a no-kill municipal agency.

In 2011, Best Friends submitted a proposal to the City of Los Angeles to turn the Northeast Valley Shelter into a high-volume spay/neuter and adoption center. Spay/neuter services would be offered to low-income residents, and animals coming into, and adopted out of, the shelter would be exclusively from LAAS. When the proposal was approved, this was a critical boon to the soon to be launched NKLA campaign. The city's six other shelters would

continue to provide animal control resources to the community, and Best Friends would keep working alongside LAAS to incentivize, promote and encourage adoptions in those shelters. But the new partnership with BF and the focused use of the Mission Hills facility would greatly increase capacity for L.A.'s homeless pets with Best Friends delivering high-volume adoptions.

Best Friends Animal Society employs over 100 Angelenos to operate our two LA centers as well as our community, coalition, marketing and event efforts here in LA. Best Friends operates the NE Valley facility, which employs almost 60 staff at a budget of \$4,000,000 annually, to support spay & neuter for center and city pets, as well as the adoption and positive outcome of homeless pets that enter LAAS.

### **Best Friends and Pull Fees:**

The terms of our relationship to LA Animal Services is determined by our contract with the city, rather than by LA Animal Services policies with regard to New Hope partners. As a result, a differentiating factor for us versus the New Hope Partners is that we do not pay pull fees for shelter animals. Pull fees are intended to offset the Animal Services costs to spay or neuter shelter pets before they go to rescue. By contract, the city has made Best Friends responsible for spaying and neutering the shelter animals that we pull from any of the six city shelters at the NE Valley S/N clinic as well as being responsible for the microchipping and additional vaccines such as rabies. Best Friends covers that cost along with any ancillary medical care that shelter animals coming into our service might need. This practice unclogs the city's own S/N operations and reduces staff time and expense for post-surgery care.

We voluntarily adhere to the same time period holds on available pets as do New Hope partners, including the most recent New Hope policies that took effect in April of 2014.

### **Best Friends Reporting:**

Every week, we report back to LA Animal Services the outcome of every animal that comes into our care (adopted, transferred, died, euthanized) with full spay and neuter, rabies vaccine, dates, LAAS animal ID #, adopter and agency names included for adopted and transferred pets as presented in a previous meeting.

### **Best Friends Capacity Levels of Dogs and Cats:**

We have agreed to keep at least 100 cats and dogs at our centers for adoption at all times. On average, at our Mission Hills facility (the NE Valley Animal Care facility) the inventory of dogs in our care ranges between 162 - 264 dogs with 159 kennels. Our inventory for adoptable age cats is between 183 - 283 cats with 127 kennels and free roam spaces for cats. We are always looking to keep a diversified floor with pets of all sizes.

Our areas at the PAC are broken down as follows:

- a. 118 total outdoor, public kennels with enclosed cubbies – primary adoption area for dogs. We primarily keep these as one dog per kennel due to the lack

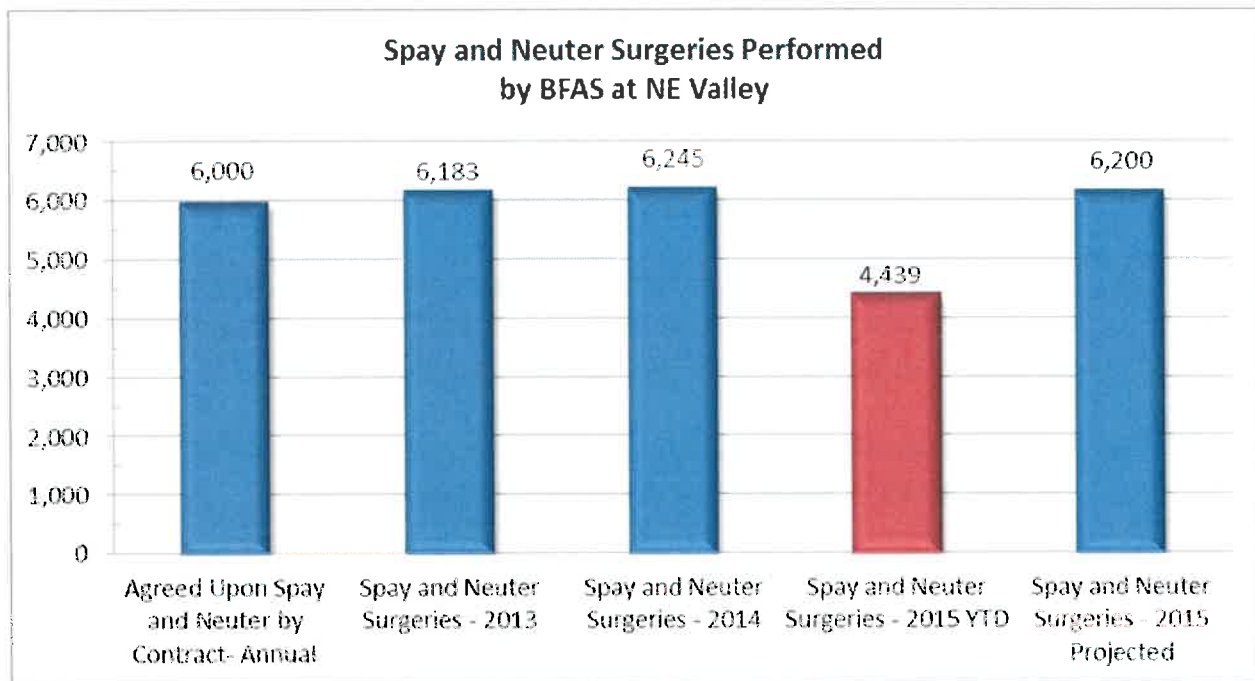
of width and the small cubbies but will pair dogs up as approved by manager, lead, or behavior personnel.

- b. 53 kennels for All American dogs (Pit Bull Terriers and Pit Bull Terrier Mixes) – consists of 45% of the outdoor kennels and 39% of overall dog population as we have 1 All American kennel in the back, non-public area.
- c. 49 kennels for Unique dogs (all large breed, non-Pit, over 30 lb dogs) – consists of 42% of the outdoor kennels and 40% of overall dog population as we have 5 unique kennels in the back, non-public area.
- d. 8 kennels specific for Wise dogs (7 years and older) – consists of 7% of the outdoor kennels and 6% of overall dog population.
- e. 8 kennels for Small Body, Big Hearts (under 30 lbs) – consists of 7% of the outdoor kennel and 13% of the overall dog population (see below).
- f. There are an additional 45 kennels in two indoor areas of the center. These areas are non-public areas in the back of the facility, but we have iPads and a kiosk out front with signage alerting the public that we have additional dogs in the back. The strategy behind this is to utilize these rooms and to keep a majority of the smaller dogs that are selected for mobile adoptions, NKLA Pet Adoption Center pets, and for adoptions at the Mission Hills center, in the back as we move through these pets much quicker and they are more suitable for these smaller inside kennels. We keep 6 kennels for “All American” admissions, 8 Kennels segmented for “Unique” admissions and 4 kennels open for return adoptions, quarantines and holds. The remainder of the kennels are held for small dog admissions.

### **Best Friends “Noses In” Work at NE Valley Facility**

We work to help drive down the annual intake of animals in the city’s 6 shelters through spay/neuter surgeries, in particular, surgeries targeted toward vulnerable pets in lower income neighborhoods. NKLA partners and volunteers are also doing ground-breaking work in the area of shelter surrender intervention

According to the Los Angeles Northeast Care Center Agreement, Best Friends has committed to best efforts to provide spay and neuter services for 6,000 animals annually. Best Friends has performed the following spay and neuter surgeries of both public and center pets up for adoption:



**Jan 1- Dec 31, 2013 – 6,183 total cat and dog spay and neuters**

- a. 3,074 center pets who were pulled from LAAS for adoptions (1664 dogs and 1410 cats)
- b. 3,109 public pets (1,933 dogs and 1,176 cats).
  - i. Out of the public spay and neuter, 2,976 were free or discounted spay and neuter services for low income or district 7 residents of the city of Los Angeles.

**Jan 1- Dec 31, 2014– 6,245 total cat and dog spay and neuters**

- a. 2,691 spay and neuter of center pets who were pulled from LAAS for adoptions (903 dogs and 1788 cats)
- b. 3,554 spay and neuter of public pets (2,402 dogs and 1,152 cats).

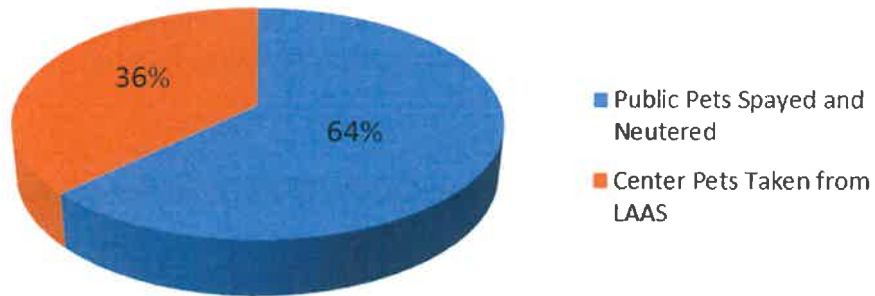
**Jan 1- August 31, 2015– 4,439 total cat and dog spay and neuters**

- a. 1,654 spay and neuter of center pets who were pulled from LAAS for adoptions (342 dogs and 1,312 cats)
- b. 2,785 spay and neuter of public pets (1,852 dogs and 933 cats)

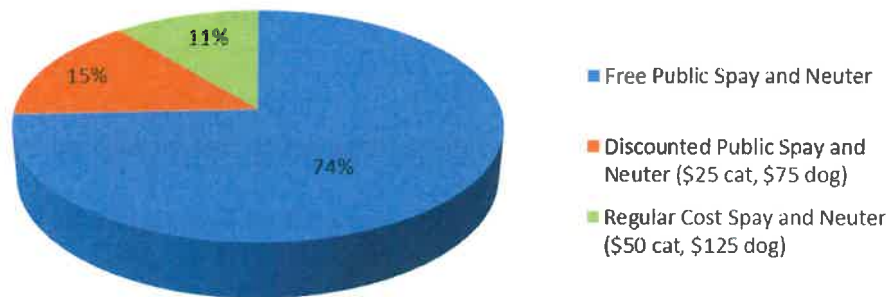
**Jan 1- Dec 31, 2015 PROJECTED – 6,200 total cat and dog spay and neuters**



### Spay and Neuters: Center vs Public 2015 YTD



### Spay and Neuters: Free, Discounted, Regular Price 2015 YTD



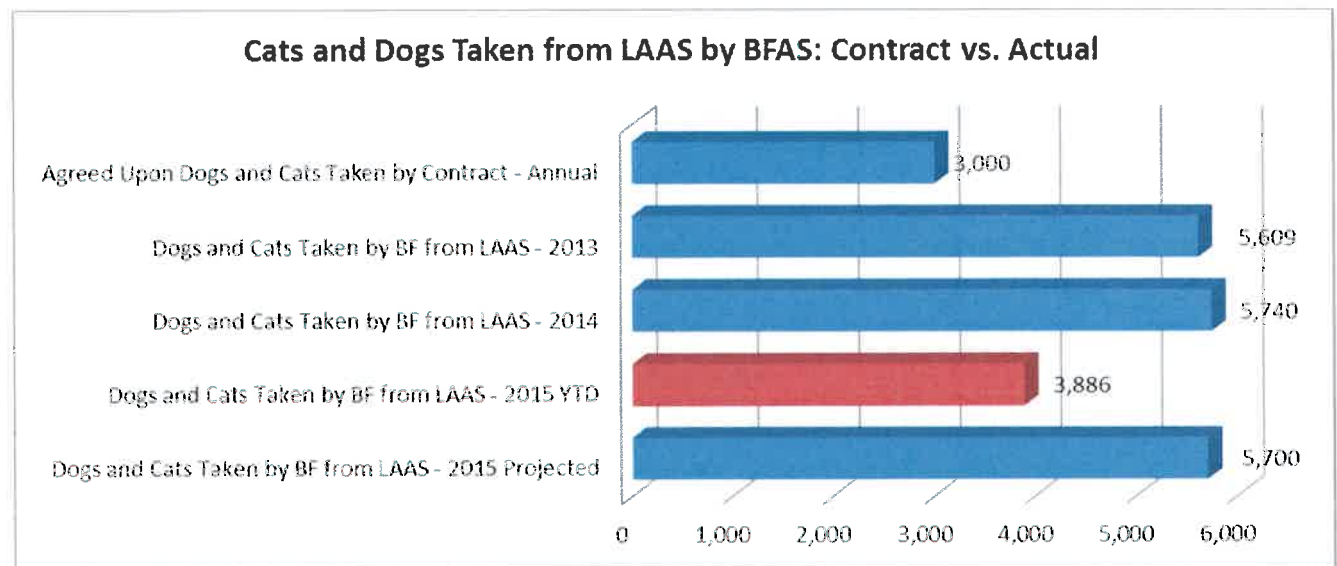
Out of the 2,785 public spay and neuter, 2,478 of those surgeries were free or discounted spay and neuter services for low income or district 7 residents of the city of Los Angeles.



## **Best Friends "Noses Out" Work at NE Valley Facility**

### **Cats and Dogs Taken From LAAS**

Best Friends pulls cats and dogs for adoption and transport exclusively from Los Angeles Animal Services six facilities to the NE Valley facility. Best Friends has committed to best efforts to take 3,000 cats and dogs from LAAS annually. Best Friends have taken the following numbers of cats and dogs from LAAS to the NE Valley facility:

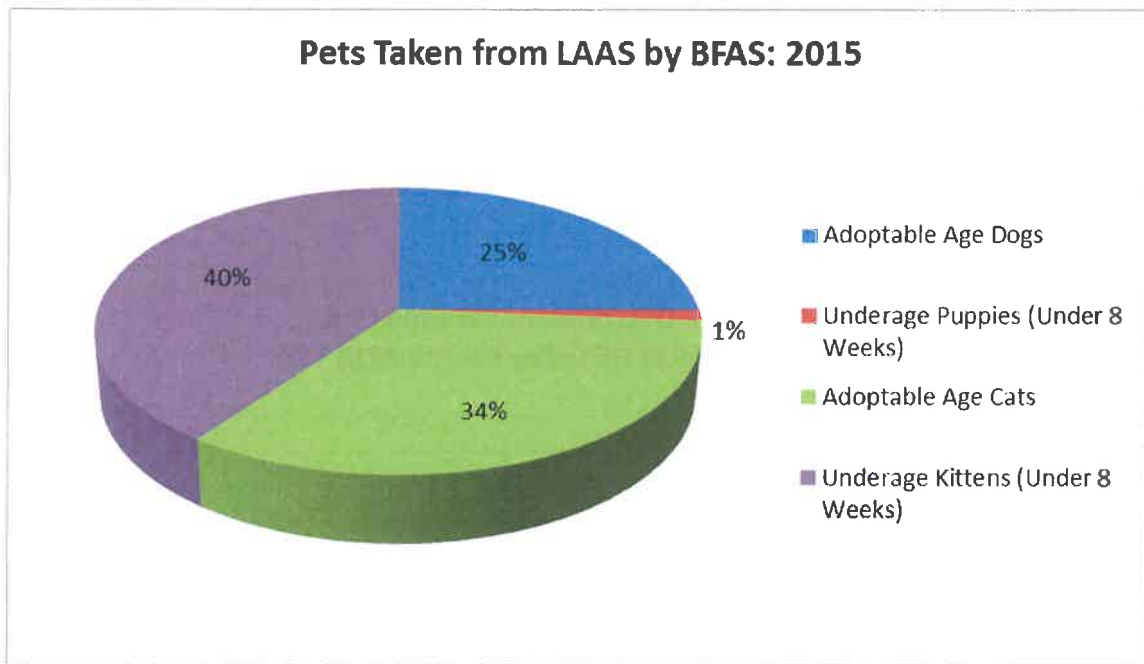


**Jan 1- Dec 31, 2013** – 5,609 total cats and dogs were taken from LAAS by Best Friends

**Jan 1- Dec 31, 2014** – 5,740 total cats and dogs were taken from LAAS by Best Friends

**Jan 1- Aug 31, 2015** – 3,886 total cats and dogs were taken from LAAS by Best Friends

**Jan 1- Dec 31, 2015 PROJECTED** – 5,700 total cats and dogs taken from LAAS by Best Friends

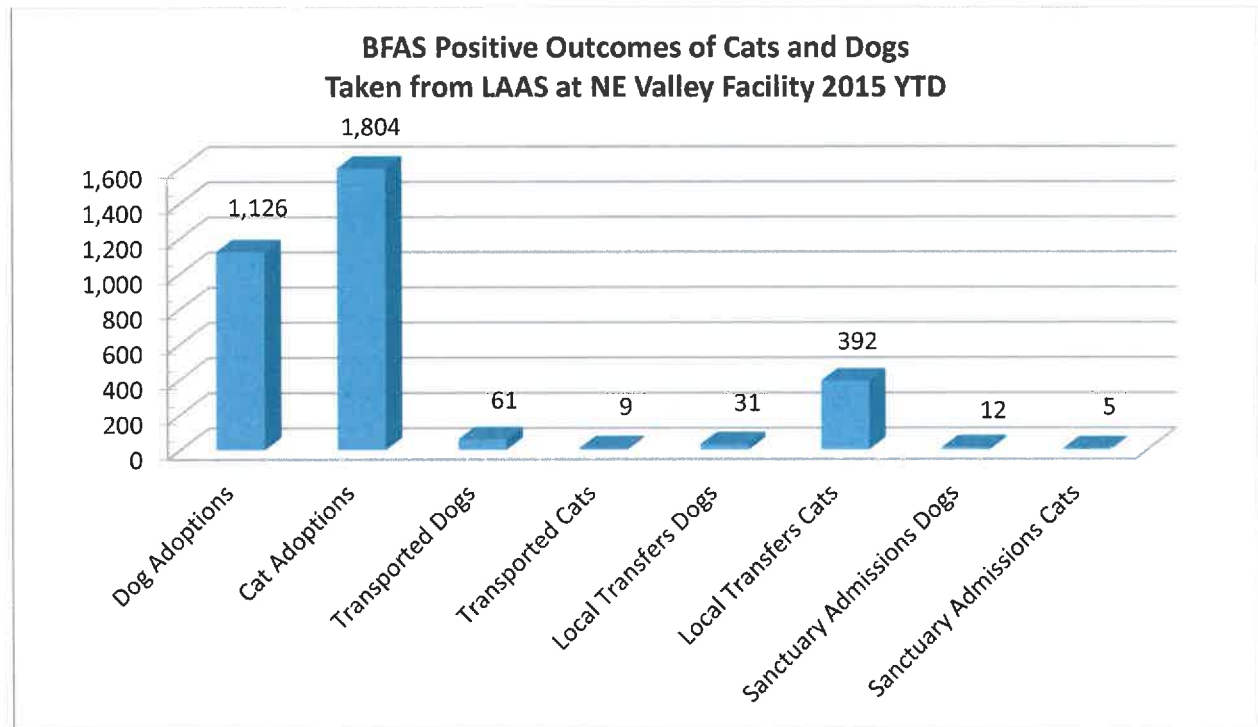


**Jan 1- Aug 31, 2015 – 3,820 total cats and dogs were taken from LAAS by Best Friends**

- a. Out of the 3,820 cats and dogs, 955 were dogs at adoptable age and 49 were underage puppies (under 8 weeks).
- b. Out of the 3,820 cats and dogs, 1,285 were cats at adoptable age and 1,531 were underage kittens (under 8 weeks). 83 of the 1,285 adoptable age cats were nursing mothers pulled with kittens.

### Positive Outcome Disbursement

So far in 2015, Best Friends has adopted, transferred to local groups, or transported to groups through our “Pup My Ride” program the following numbers of cats and dogs from the NE Valley Facility:



- g. 2,930 cat and dog adoptions into new homes.
  - i. 1,126 of the 2,930 total adoptions were dog adoptions
  - ii. 1,804 of the 2,930 total adoptions were cat adoptions
- h. 70 cats and dogs were transported through our “Pup My Ride” transport program to our transport partners found on our website:  
<http://bfla.bestfriends.org/pup-my-ride---la.html>. All transport partners sign an adoption guarantee/return agreement. To further ensure the safety of transferred pets, Best Friends stipulates a return to BF agreement with all of our transfer partners should any animal not be placed with the public. Best Friends spays and neuters almost all our transport animals prior to their transport. Exceptions may be if the pet is 7 weeks or just turned 8 weeks old, and in those circumstances, we required the spay and neuter certificates from our receiving group and then report the animal’s outcome and spay and neuter info in our weekly reporting sheets.

- i. 61 of the 70 total transports were dogs/puppies
  - ii. 9 of the 70 total transports were cats/kittens
- i. 423 cats and dogs (almost solely made up of underage kittens and puppies) were transferred to other local NKLA coalition members or local non-profits. Best Friends reports spay and neuter dates for all transferred cats and dogs taken from LAAS to LAAS after surgery is performed in our weekly reporting sheets.
  - i. 31 of the 423 total transfers were dogs
  - ii. 392 of the 423 total transfers were cats
- j. 17 cats and dogs were admitted to the Best Friends Sanctuary in Kanab, Utah
  - i. 12 of the 17 total Sanctuary admissions were dogs
  - ii. 5 of the 17 total Sanctuary admission were dogs

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**LOS ANGELES NORTHEAST CARE CENTER  
AGREEMENT**

dated as of

December 30, 2011

by and between

**CITY OF LOS ANGELES**

and

**BEST FRIENDS ANIMAL SOCIETY**

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## TABLE OF CONTENTS

ARTICLE 1 BASIC PROVISIONS .....	2
Section 1.1.    Date and Parties.....	2
Section 1.2.    Reserved Powers .....	2
Section 1.3.    Execution Date .....	2
Section 1.4.    Term. ....	2
Section 1.5.    References .....	2
ARTICLE 2 DEFINITIONS AND INTERPRETATION.....	3
Section 2.1.    Definitions.....	3
Section 2.2.    Number and Gender .....	7
Section 2.3.    Headings.....	7
Section 2.4.    References to this Agreement .....	8
Section 2.5.    Meaning of Including.....	8
Section 2.6.    Meaning of Discretion.....	8
Section 2.7.    Consents and Approvals.....	8
Section 2.8.    Laws .....	8
Section 2.9.    Currency .....	8
Section 2.10.    Generally Accepted Accounting Principles .....	8
Section 2.11.    Approvals, Consents and Performance by the City .....	8
Section 2.12.    Schedules and Exhibits .....	9
ARTICLE 3 TERMS OF THE MANAGEMENT CONTRACT.....	10
Section 3.1.    Right of Use. ....	10
Section 3.2.    Northeast Animal Care Center Operations .....	10
Section 3.3.    Maintenance and Repair.....	14
Section 3.4.    No Encumbrances .....	15
Section 3.5.    Rights of the City to Access and Perform Work on the Northeast Animal Care Center .....	16
Section 3.6.    Payment of Taxes.....	17
Section 3.7.    Los Angeles City Business Tax .....	17
Section 3.8.    Utilities.....	17
Section 3.9.    Notices of Defaults and Claims.....	18
Section 3.10.    Name and Advertisements .....	18
Section 3.11.    Police, Fire, Emergency and Public Safety Access Rights .....	19
Section 3.12.    Payments by the City .....	19
Section 3.13.    Operating Standards – Operator Changes .....	19
Section 3.14.    Operating Standards – City Changes .....	20
Section 3.15.    Public Purpose Requirements. ....	20
Section 3.16.    Leases, Covenants and Easements .....	20
ARTICLE 4 MODIFICATIONS.....	20
Section 4.1.    Operator Requests .....	20
Section 4.2.    Performance of Modifications.....	20

ARTICLE 5 ALTERATIONS AND IMPROVEMENTS.....	21
Section 5.1.    Alterations and Improvements .....	21
ARTICLE 6 FEES; REVENUES .....	23
Section 6.1.    Fee Revenues .....	23
Section 6.2.    Fee Rate Notices .....	23
ARTICLE 7 REPORTING; AUDITS; INSPECTIONS .....	24
Section 7.1.    Reports .....	24
Section 7.2.    Information.....	24
Section 7.3.    Inspection, Audit and Review Rights of the City. ....	25
Section 7.4.    Audits, Assistance, Inspections and Approvals .....	26
ARTICLE 8 COMPLIANCE WITH LAWS.....	27
Section 8.1.    Compliance with Laws.....	27
Section 8.2.    Injunction .....	27
Section 8.3.    Non-Discrimination.....	28
ARTICLE 9 INDEMNIFICATION .....	33
Section 9.1.    Indemnification by the Operator .....	33
Section 9.2.    Indemnification by the City .....	34
Section 9.3.    Agency for Representatives .....	34
Section 9.4.    Third Party Claims .....	34
Section 9.5.    Direct Claims .....	35
Section 9.6.    Failure to Give Timely Notice .....	35
Section 9.7.    Reductions and Subrogation .....	35
Section 9.8.    Payment and Interest .....	36
Section 9.9.    Other Matters .....	36
Section 9.10.   Offset Rights; Limitations on Certain Damages .....	36
Section 9.11.   Survival .....	36
ARTICLE 10 INSURANCE .....	36
Section 10.1.   Insurance Coverage Required .....	36
Section 10.2.   General Liability Insurance .....	37
Section 10.3.   Automobile Liability Insurance .....	37
Section 10.4.   Builder's Risk Insurance .....	37
Section 10.5.   Workers' Compensation and Employer's Liability Insurance .....	37
Section 10.6.   Additional Insureds /Additional Interest/Loss Payee.....	37
Section 10.7.   Operator's Property .....	37
Section 10.8.   Notice of Change in Insurance .....	37
Section 10.9.   Default.....	38
Section 10.10.  Adjustment of Insurance Levels.....	38
Section 10.11.  Waiver of Subrogation .....	38
Section 10.12.  Admitted Carrier/Licensed California Broker .....	38
Section 10.13.  Contribution Not Required.....	38
Section 10.14.  Separation of Insureds.....	38



Section 10.15.	Insurance Approval .....	38
Section 10.16.	Evidence of Insurance .....	38
ARTICLE 11 DISPUTE RESOLUTION .....		39
Section 11.1.	Scope .....	39
Section 11.2.	Informal Dispute Resolution Procedures .....	39
Section 11.3.	Non-Binding Mediation .....	39
Section 11.4.	Judicial Reference of Disputes .....	39
Section 11.5.	Provisional Remedies .....	40
ARTICLE 12 DEFAULTS .....		40
Section 12.1.	Default by the Operator .....	40
ARTICLE 13 MISCELLANEOUS .....		42
Section 13.1.	Notice .....	42
Section 13.2.	Notices - Where Sent .....	42
Section 13.3.	Entire Agreement .....	42
Section 13.4.	Agent for Service of Notice and Process .....	43
Section 13.5.	Amendment .....	43
Section 13.6.	Waiver of Rights .....	43
Section 13.7.	Severability .....	43
Section 13.8.	Reservation of Mineral Rights .....	43
Section 13.9.	No Partnership or Third Party Beneficiaries .....	43
Section 13.10.	Governing Law .....	43
Section 13.11.	Submission to Jurisdiction .....	43
Section 13.12.	Further Acts .....	44
Section 13.13.	Costs .....	44
Section 13.14.	Counterparts; Facsimile Execution .....	44

## LOS ANGELES NORTHEAST CARE CENTER AGREEMENT

THIS LOS ANGELES NORTHEAST CARE CENTER AGREEMENT (this "Agreement") is made and entered into as of December 30, 2011, between the City of Los Angeles (the "City"), a municipal corporation and a charter city under the laws of the State of California, acting by and through the Department of Animal Services ("Department"), and Best Friends Animal Society, a tax-exempt non-profit animal welfare organization (the "Operator"), which is authorized to do business in the State of California, with regard to the following:

### RECITALS

WHEREAS, the City owns the Northeast Animal Care Center ("Care Center", "Center" or "Northeast Animal Care Center"); and

WHEREAS, pursuant to a Request for Information (RFI) dated January 10, 2011, and under the terms and conditions contained in that RFI and the motion adopted by the City Council of the City (the "Northeast Animal Care Center Council Action"), the City is entering into a contract to allow the Operator to provide certain services at the Care Center; and

WHEREAS, the Operator will provide certain services to include adoptions, pet education, spay/neuter surgeries and other Animal Welfare Services not otherwise prohibited by this Agreement; and

WHEREAS, the Operator desires to provide those Animal Welfare Services in the Care Center as hereinafter provided; and the City desires to grant the Operator the right to provide Animal Welfare Services to the public in the Care Center as hereinafter provided; and

WHEREAS, it is anticipated that Operator will provide approximately 3,000 annual adoptions and related veterinary care for cats and dogs that are received from the Department's other shelters and adopted from the Care Center, as well as 6,000 or more spay/neuter surgeries per year for pets owned by qualifying residents in the Los Angeles area or adopted from the Care Center; and

WHEREAS, it is anticipated that the cost to provide these services by Operator may exceed the anticipated revenue by as much as \$1,000,000 per year, which amount will be borne solely by Operator; and

WHEREAS, these operations will augment the Department's ability to provide adoption and spay/neuter services to residents in Los Angeles; and

WHEREAS, the Operator will accept the fees for services listed herein; and

WHEREAS, the City has determined that the terms and provisions of this Agreement will ensure that certain Animal Welfare Services will be provided in the Care Center in a manner that benefits the public and fulfills the public purposes of the Care Center and as such public benefits and public purposes will be preserved.

WHEREAS, the City desires to comply with the January 5, 2010 Permanent Injunction in *The Urban Wildlands Group, et al. v. City of Los Angeles, et al.*, Los Angeles Superior Court Action No. BS115483, as modified by the March 10, 2010 Stipulated Order Modifying Injunction (collectively the "Injunction"), and until such time, if any, that the Injunction is lifted, the Operator will also comply with the Injunction and provide no services, spay/neuter surgeries, or veterinary care of any kind under this Agreement in violation of the Injunction.

NOW THEREFORE, the Parties (as defined herein) covenant and agree as follows:

## ARTICLE 1 BASIC PROVISIONS

**Section 1.1. Date and Parties.** This Agreement is dated, as of the date first written above, and is between City and the Operator upon the provisions and conditions contained in this Agreement. The City is a municipal corporation and a charter city, organized under the laws of the State of California. The Operator is a tax-exempt non-profit animal welfare organization, with principal offices at 5001 Angel Canyon Dr., Kanab, Utah 84741.

**Section 1.2. Reserved Powers.** The Reserved Powers of the City are expressly reserved to the City for the Term of this Agreement. Any obligations or restrictions imposed by this Agreement on the City shall not relate to or otherwise affect any activity of the City in its governmental capacity, including, but not limited to, enacting laws, inspecting Northeast Animal Care Center, reviewing and issuing permits, and all other legislative, administrative, or enforcement functions of the City pursuant to federal, state, or local law.

**Section 1.3. Execution Date.** The phrase "Execution Date" shall mean the date the Office of the City Clerk of Los Angeles attests this Agreement, except in the event that Operator executes this Agreement after such attestation, in which case the date of such execution by Operator shall be the Execution Date. The Agreement commencement date shall be as of the date written above.

**Section 1.4. Term.** The term of this Agreement shall be three (3) years, and upon the mutual written agreement of the City and Operator, may be renewed for up to two (2) additional years. The City intends to exercise the renewal option on the condition that the Operator's performance reasonably meets the expectations stipulated in this Agreement. The City will not decline to exercise the renewal option arbitrarily and capriciously.

**Section 1.5. References.** All references to the "City" in this Agreement shall include the City's various departments and subdivisions, including the Department of Animals Services.

## ARTICLE 2 DEFINITIONS AND INTERPRETATION

**Section 2.1. Definitions.** For the purposes of this Agreement the following terms have the following meanings:

"Affiliate", when used to indicate a relationship with a specified Person, means a Person that, directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with such specified Person, and a Person shall be deemed to be controlled by another Person, if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise (it being understood and agreed that for the purposes of this definition, a managed fund or trust shall be deemed to be an Affiliate of the Person managing such fund or trust).

"Administrative Code" means the Administrative Code of the City of Los Angeles, as amended.

"Affected Property" means any public or private property, including a park, highway, street, road, roadway, railroad, rail or other transit way, mechanical room, tunnel, storage room or elevator and any ancillary facilities related to any of the foregoing, under the jurisdiction and control of the City, any other Governmental Authority or any other Person that is located above, within the boundaries of, intersects with, crosses over or under or is adjacent to the Care Center or any part thereof.

"Agreement" has the meaning ascribed thereto in the preamble to this Agreement (including all schedules referred to herein), as amended from time to time in accordance with the terms hereof.

"Animal Welfare Services" means, in accordance with the terms of this Agreement, animal care activities identified in Section 3.2 of this Agreement.

"Annual Revenues" means, with respect to any Fiscal Year, all gross Fee Revenues and all gross Other Operator Revenues.

"Audit" and similar expressions mean, with respect to any matter or thing relating to the Northeast Animal Care Center, the Northeast Animal Care Center Operations or this Agreement, the performance by or on behalf of the City of such reviews, investigations, inspections and audits relating to such matter or thing as the City may reasonably determine to be necessary in the circumstances, conducted in each case in accordance with applicable United States industry accepted practices, if any, or as required by Law.

"Authorization" means any approval, certificate of approval, authorization, consent, waiver, variance, exemption, declaratory order, exception, license, filing, registration, permit, notarization or other requirement of any Person that is reasonably required from time to time for the Northeast Animal Care Center Operations.

"Bank Rate" means the 3-Month London Interbank Offered Rate (LIBOR) as reported in *The Wall Street Journal* (or its successors).

"Board" means the Board of Animal Services Commissioners of the City.

"Business Day" means any day that is neither a Saturday, a Sunday nor a day observed as a holiday by State of California, the City of Los Angeles, or the United States government. Whenever under the terms of this Agreement the time for performance of a covenant or condition falls on a Saturday, Sunday, or Federal, California State, or City of Los Angeles holiday, such time for performance shall be extended to the next business day.

"CAO" means the City Administrative Officer of the City or the City Administrative Officer's designee.

"Care Center" "Center" or "Northeast Animal Care Center" has the meaning ascribed thereto in the recitals to this Agreement.

"City" has the meaning ascribed thereto in the preamble to this Agreement.

"City Directive" means a written order or directive prepared by or on behalf of the City directing the Operator, to the extent permitted hereby, to (i) add or perform work in respect of the Northeast Animal Care Center in addition to that provided for in this Agreement, or (ii) change the dimensions, character, quantity, quality, description, location or position of any part of the Northeast Animal Care Center or the Northeast Animal Care Center Operations; *provided, however*, that no such order or directive may in any event order or direct the Operator to do any act that could reasonably be expected to violate any applicable Law, the Injunction, or are materially inconsistent with the Operator's internal policies or procedures dated October 3, 2011 as provided to the City, or cause the Operator to fail to be in compliance with this Agreement.

"Consent" means any approval, consent, ratification, waiver, exemption, license, permit, novation, certificate of occupancy or other authorization, of any Person, including any Consent issued, granted, given, or otherwise made available by or under the authority of any Governmental Authority or pursuant to any applicable Law.

"Construction Contract" means any construction contract entered into by the Operator related to the Northeast Animal Care Center (or subcontracts thereunder).

"Contractor" means, with respect to a Person, any contractor with whom such Person contracts to perform work or supply materials or labor in relation to the Northeast Animal Care Center, including any subcontractor of any tier, supplier or materialman directly or indirectly employed pursuant to a subcontract with a Contractor. For the avoidance of doubt, the Operator shall be a Contractor of the Operator.

"Days" or "days" as applied in this Agreement to a period of less than ten (10) days shall mean Business Days; otherwise, "days" shall mean calendar days unless specifically modified herein to be "business" or "working" days.



"Department" has the meaning ascribed thereto in the preamble to this Agreement.

"Designated Senior Person" means such individual who is designated as such from time to time by each Party for the purposes of Article 11.

"Emergencies" mean any event including fires, floods, earthquakes or other events that require the urgent housing of animals by the City, emergency mobilization, evacuation of household pets and large animals, and emergency staging operations. "Emergencies" shall expressly not include animal seizures resulting from hoarding or other law-enforcement situations.

"Encumbrance" means any- mortgage, lien, judgment, execution, pledge, charge, security interest, restriction, easement, servitude, option, reservation, lease, UCC filing, claim, trust, deemed trust or encumbrance of any nature whatsoever, whether arising by operation of Law, judicial process, contract, agreement or otherwise created.

"End Date" means the date on which this Agreement expires or is terminated.

"Environment" means the physical conditions which exist within the area affected by the Care Center including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance, including but not limited to soil, surface waters, groundwater, land, stream sediments, surface or subsurface strata and ambient air.

"Environmental Laws" means any Laws applicable to the Northeast Animal Care Center regulating or imposing liability or standards of conduct concerning or relating to (i) the regulation, use or protection of human health and the Environment or (ii) the regulation, use or exposure to Hazardous Substances.

"Execution Date" has the meaning ascribed thereto in Section 1.3.

"Fiscal Year" means the annual period commencing on July 1 of a calendar year and ending on June 30 of the next calendar year.

"Governmental Authority" means any court, federal, state, local or foreign government, department, commission, board, bureau, agency or other regulatory, administrative, governmental or quasi-governmental authority.

"Information" means any and all information relating to the Northeast Animal Care Center, including (i) income statements, balance sheets, statements of cash flow and changes in financial position, details regarding Revenues, operating income, expenses, capital expenditures and budgeted operating results relating to the Northeast Animal Care Center, (ii) all certificates, correspondence, data (including test data), documents, facts, files, information, investigations, materials, notices, plans, projections, records, reports, requests, samples, schedules, statements, studies, surveys, tests, test results, information analyzed, categorized, characterized, created, collected, generated, maintained, processed, produced, prepared, provided, recorded, stored or used by the Northeast Animal Care Center, the Operator or any of its Representatives in connection with the Northeast Animal Care Center and (iii) proper, complete and accurate books, records, accounts and documents of the Operator relating to the Northeast Animal Care Center, including any Information that is stored electronically or on computer-related media; *provided*,

however, that nothing in this Agreement shall require the disclosure by any Party of Information that is protected by attorney-client or other legal privilege based upon an opinion of counsel reasonably satisfactory to the other Party or acquired by a Party subject to a confidentiality agreement.

“Injunction” means that certain Final Judgment and Permanent Injunction dated January 5, 2010 and as modified by the Stipulated Order Modifying Injunction in the case entitled The Urban Wildlands et al vs. City of Los Angeles et al, Case No. BS 115483 dated March 10, 2010, copies of which are attached hereto as **Attachment A**.

“Law” or “Laws” includes all federal, state, county, city, or government agency laws, statutes, ordinances, standards, rules, requirements, writs, injunctions, decrees, judgments, or orders now in force or hereafter enacted, promulgated, or issued, including, without limitation, government measures regulating or enforcing public access, occupational, health, or safety standards, hazardous materials, or for parking, employers, employees, or Operators.

“Loss” means, with respect to any Person, any loss, liability, damage, penalty, charge or out-of-pocket and documented cost or expense actually suffered or incurred by such Person, but excluding any punitive, special, indirect and consequential damages and any contingent liability until such liability becomes actual.

“Month” or “Months” shall be deemed to include the actual number of days in such actual month or months.

“Municipal Code” means the Municipal Code of the City of Los Angeles, as amended.

“Notice” means the notice given in compliance with Section 13.1. and Section 13.2.

“Operations” or “Northeast Animal Care Center Operations” means the provision of Animal Welfare Services by Operator in the Northeast Animal Care Center, and more specifically the adoption, spay/neuter and other Animal Welfare Services to be performed by Operator at the Northeast Care Center specifically excluding animal intake or animal control or enforcement services as well as the use, maintenance and repair of the Care Center by Operator.

“Operating Agreement” means any material agreement, contract or commitment to which the Operator is a party or otherwise relating to the Northeast Animal Care Center Operations as in force from time to time (including any warranties or guaranties).

“Operating Standards” means (i) the standards, specifications, policies, procedures and processes as stated in the Operator’s internal policies or procedures manual dated October 3, 2011 that apply to the operation, maintenance, and capital improvements to, the Northeast Animal Care Center set forth in the document , including any plans submitted by the Operator to the City as required therein. To the extent that any term or provision set forth in the Operator’s internal policies or procedures manual dated October 3, 2011 or incorporated by reference conflicts with any term or provision specified in this Agreement, then such term or provision of this Agreement shall govern and shall supersede any such conflicting term or provision.

“Operator” has the meaning ascribed thereto in the preamble to this Agreement.



"Operator Request" means a written request in respect of the Northeast Animal Care Center prepared by or on behalf of the Operator and addressed to the City as provided herein.

"Northeast Animal Care Center Council Action" has the meaning ascribed thereto in the recitals to this Agreement.

"Party" means a party to this Agreement and "Parties" means all of them.

"Representative" means, with respect to any Person, any director, officer, employee, official, lender (or any agent or trustee acting on its behalf), partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, Contractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its "Representative."

"Required Coverage" has the meaning ascribed thereto in Section 10.1.

"Reserved Powers" means the exercise by the City of police and regulatory powers with respect to the Northeast Animal Care Center, and the regulation of traffic, traffic control and the use of the public way.

"Reversion Date" means the day immediately following the End Date.

"Standard Terms and Conditions" means those Standard City Terms and Conditions (Rev 3/09) that are attached to this contract as **Attachment B** and made a part hereof.

"Tax" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, permit fees, capital stock, profits, withholding, social security, unemployment, disability, real property, possessory interest, personal property, parking, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not.

"Term" means the term of the management contract referred to in Section 1.4.

"TNR" means Trap, Neuter, Return.

**Section 2.2. Number and Gender.** In this Agreement words in the singular include the plural and vice versa and words in one gender include all genders.

**Section 2.3. Headings.** The division of this Agreement into articles, sections and other subdivisions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and shall not be considered part of this Agreement.

**Section 2.4. References to this Agreement.** The words "herein," "hereby," "hereof," "hereto" and "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular portion of it. The words "Article," "Section," "paragraph," "sentence," "clause" and "Schedule" mean and refer to the specified article, section, paragraph, sentence, clause or schedule of or to this Agreement.

**Section 2.5. Meaning of Including.** In this Agreement, the words "include," "includes" or "including" mean "include without limitation," "includes without limitation" and "including without limitation," respectively, and the words following "include," "includes" or "including" shall not be considered to set forth an exhaustive list.

**Section 2.6. Meaning of Discretion.** In this Agreement, the word "discretion" or words of like import, City and Operator expressly agree that such Party has the sole and absolute unfettered ability to exercise such discretion, including, without limitation, to grant or withhold approval, either arbitrarily or otherwise, and with or without reason, and neither the opposite Party nor any other Person, entity, or tribunal shall have any right or power to inquire into or review the exercise of such discretion, including, without limitation, the granting or withholding of approval, or the reasons or lack of reasons therefor.

**Section 2.7. Consents and Approvals.** Unless specified otherwise, wherever the provisions of this Agreement require or provide for or permit an approval or consent by either Party, such approval or consent, and any request therefor, must be in writing (unless waived in writing by the other Party).

**Section 2.8. Laws.** Unless specified otherwise, references to a Law are considered to be a reference to (i) such Law as it may be amended from time to time, (ii) all regulations and rules pertaining to or promulgated pursuant to such Law, (iii) the successor to the Law resulting from recodification or similar reorganizing of Laws and (iv) all future Laws pertaining to the same or similar subject matter. Nothing in this Agreement shall fetter or otherwise interfere with the right and authority of the City to enact, administer, apply and enforce any Law in its capacity as a governmental agency.

**Section 2.9. Currency.** Unless specified otherwise, all statements of or references to dollar amounts or money in this Agreement are to the lawful currency of the United States of America.

**Section 2.10. Generally Accepted Accounting Principles.** All accounting and financial terms used herein, unless specifically provided to the contrary, shall be interpreted and applied in accordance with generally accepted accounting principles in the United States of America, consistently applied.

**Section 2.11. Approvals, Consents and Performance by the City.**

(a) *Procedures.* Wherever the provisions of this Agreement require or provide for or permit an approval or consent by the City of or to any action, Person, Document, or other matter contemplated by this Agreement, the following provisions shall apply: (i) such request for approval or consent must (1) be directed to the proper person and contain or be accompanied by any documentation or information required for such approval or consent in reasonably

sufficient detail, as reasonably determined by the City, (2) clearly set forth the matter in respect of which such approval or consent is being sought, (3) form the sole subject matter of the correspondence containing such request for approval or consent, and (4) state clearly that such approval or consent is being sought; (ii) such approval or consent shall not be unreasonably or arbitrarily withheld, conditioned or delayed (unless such provision provides that such approval or consent may be unreasonably or arbitrarily withheld, conditioned or delayed or is subject to the discretion of the City); (iii) the City shall, within such time period set forth herein (or if no time period is provided, within 45 days, subject to the City's right to extend such period for an additional 15 days) after the giving of a notice by the Operator requesting an approval or consent, advise the Operator by notice either that it consents or approves or that it withholds its consent or approval, in which latter case it shall (unless such provision provides that such approval or consent may be unreasonably or arbitrarily withheld, conditioned or delayed or is subject to the discretion of the City) set forth, in reasonable detail, its reasons for withholding its consent or approval, which reasons may include the insufficiency, as determined by the City acting reasonably, of the information or documentation provided; (iv) if the responding notice mentioned in clause (iii) of this Section 2.11(a) indicates that the City does not approve or consent, the Operator may take whatever steps may be necessary to satisfy the objections of the City set out in the responding notice and, thereupon, may resubmit such request for approval or consent from time to time and the provisions of this Section 2.11 shall again apply until such time as the approval or consent of the City is finally obtained; (v) if the disapproval or withholding of consent mentioned in clause (iv) of this Section 2.11(a) is subsequently determined pursuant to Article 12 to have been improperly withheld or conditioned by the City, such approval or consent shall be deemed to have been given on the date of such final determination; and (vi) for the avoidance of doubt, any dispute as to whether or not a consent or approval has been unreasonably withheld, conditioned or delayed shall be resolved in accordance with the provisions of Article 12.

(b) *Authority of the City.* Wherever this Agreement provides that an act is to be taken or performed or approval or consent is to be given by the City, unless specified otherwise in this Agreement or otherwise expressly required by Law, the City Charter, the Municipal Code or the Administrative Code, such act may be taken or performed or approval or consent may be given by the CAO, without further action by the City Council of the City and the Operator may rely thereon in all respects.

(c) *Approved Documents.* Subject to the other provisions hereof, wherever in this Agreement an approval or consent is required with respect to any document, proposal, certificate, plan, drawing, specification, contract, agreement, budget, schedule, report or other written instrument whatsoever (a "Document"), following such Approval such Document shall not be amended, supplemented, replaced, revised, modified, altered or changed in any manner whatsoever without obtaining a further Approval in accordance with the provisions of this Section 2.11.

**Section 2.12. Schedules and Exhibits.** In the event of any conflict between the terms of this Agreement and the terms of the Schedules and Exhibits attached to this Agreement, the terms of this Agreement shall control.

### ARTICLE 3 TERMS OF THE MANAGEMENT CONTRACT

#### Section 3.1.       Right of Use.

(a) The City and Operator acknowledge the Operator's right to use the Care Center to provide spay/neuter services, adoption services and Animal Welfare Services to the community in accordance with the terms of this Agreement and that the City may monitor to ensure compliance.

#### Section 3.2.       Northeast Animal Care Center Operations.

(a) *Use.* Except as otherwise specifically provided herein, including without limitations the public purpose requirements of Section 3.15, the Operator shall, at all times during the Term, (i) be responsible for all aspects of the Northeast Animal Care Center Operations; and (ii) cause the Northeast Animal Care Center Operations to be performed in accordance with the provisions of this Agreement and applicable Law (*provided, however*, that the Operator may contest the application of any Law by appropriate proceedings). The Operator shall, at all times during the Term, provide the programs at the Northeast Animal Care Center in accordance with the Operating Standards and in compliance with any other requirement of this Agreement (including closures related to maintenance or repair activities as required by the Operating Standards) or for temporary closures required to address emergencies, public safety or temporary events.

(b) *Costs and Expenses.* Except as otherwise specifically provided herein, the Operator shall, at all times during the Term, pay or cause to be paid all costs, expenses, and taxes, if any, relating to the Northeast Animal Care Center Operations as and when the same are due and payable.

(c) *Scope of Services.* The Operator shall conduct the Operations at the Northeast Animal Care Center according to all federal, state, and local laws; shall comply with the terms of the Injunction; shall take no action that it knows shall cause the City to be in violation of the Injunction, shall use its best efforts to take approximately 3,000 animals annually from the Department of Animal Services for adoption through its Operations at the Northeast Care Center; shall use its best efforts to annually provide approximately 6,000 spay/neuter services for adopted animals and animals owned by members of the public, and shall provide related veterinary medical services; shall provide all staffing, equipment, and supplies; shall obtain all permits, licenses, and registrations required to provide the services described herein at the Northeast Animal Care Center; and shall coordinate with Department staff to provide these services:

1. Primary Function - On-site pet adoptions and periodic pet adoption events:
  - With the exception of animals being housed there by the City temporarily whether for transports or as a result of an Emergency, animals at the Northeast Animal Care Center will be the legal property of Operator until they are adopted out to the public or transferred to a rescue group. Animal transfers to other rescue groups will be limited and must be approved by the Department. Animals sent for fostering must



remain available and advertised for adoption and will not count toward the 100 dog and cat minimum.

- On average a combined minimum of 100 dogs and cats available for adoption will be housed and cared for at the Northeast Animal Care Center by Operator. Operator shall have until January 31, 2012, or sixty days after the Execution Date, whichever is later, to reach this average capacity.
- Operator will be the adoption facilitator providing animal care, training, grooming and marketing to find the animals homes.
- Operator will receive all animals to be adopted from the Care Center from the Department of Animal Services. No other animals will be accepted by or adopted out of the Care Center. To maintain its required inventory of adoptable animals, Operator will be entitled to select from the total list of animals available to the City's New Hope Partners. Such list shall be made available to Operator on the same frequency it is provided to the other New Hope Partners or any other similar program in which animals are transferred from the Department's shelters to rescue groups, and no less frequently than weekly. Operator will not provide any animal intake at the Care Center and will not accept animals brought to the Center by members of the public, who will be directed to one of the other shelters operated by the Department in order to turn in their animal.
  - a. Consistent with Operator's adoption policy guaranteeing that adopters can return an animal at any time, Operator may accept and adopt out owner surrendered or returned animals previously adopted out by Operator at the Care Center or at adoption events that originated with the Department of Animal Services.
  - b. Operator shall not be responsible for failure to reach capacity caused by (i) insufficient numbers of healthy and otherwise adoptable animals at City shelters listed by the Department as available for transfer to the Care Center; or (ii) failure by the Department to cooperate with Operator and transfer animals in a timely manner; or (iii) other failure by the Department to cooperate with Operator.
- Operator has sole discretion to approve or reject proposed adoptions from the Care Center.
- Operator will collect and remit the \$20 dog license fee to the City for all dogs adopted at the Northeast Animal Care Center. Operator will provide the Department with the name, address and contact information of all adopters on a weekly basis, and use its best efforts to insure that adopters residing in the City are in compliance with City laws governing the number of animals that may be kept by one person or at one property by not licensing more than three dogs to any person or at one property nor adopting more than three cats to any one person or property.
- Operator will be responsible for spaying or neutering the animals received from the Department and will only adopt out dogs and cats that have been spayed or neutered.
  - a. Notwithstanding the foregoing, on rare occasions a veterinarian may determine that an animal is permanently unfit for spay/neuter surgery due to age or other health reasons; Operator shall not be prohibited from making such animals available for adoption, but will provide the name and contact

information and reason for the determination to the Department within 5 days of the adoption.

- Operator may have animal supplies on-site for sale at the Northeast Animal Care Center that adopters will need to transition their animal into their home.
2. Secondary Function - Low cost spay/neuter surgeries, vaccinations, and medical care for adopted and owned pets
    - Surgical Sterilization. Operator will begin operations of a spay/neuter clinic in the Care Center by January 31, 2012, or within sixty days after the Execution Date, whichever is later.
      - a. Cats and dogs available for adoption in the Northeast Animal Care Center.
      - b. Cats and dogs owned by the public.
    - Periodic Vaccine and/or Microchip Clinics.
  3. Tertiary Function - Educational, outreach, and development programs and other Animal Welfare Services as may be offered at the discretion of Operator
    - Emergency medical treatment of animals;
    - Special Events:
      - a. Pet Adoption Events.
      - b. Pet Health/Wellness Clinics.
    - Free Public Education Classes.
    - Dog Training Classes for dogs waiting to be adopted from the Care Center, for fostered dogs and for dogs with valid licenses belonging to the community.
  4. Emergency Function – Temporary use for animal housing by City

(d) *Operational Requirements.* Operator shall maintain at all times an approved written protocol detailing all procedures, including, but not limited to animal handling, vaccination, anesthesia surgery guidelines, and drug inventory. This protocol must be available for review and approval by the Department at the inception of this Agreement and at all times during its term. The Operator shall post this protocol in a public area at all times.

(e) *Days and Hours of Operation.* Operator shall ensure that the adoption center and spay/neuter clinic are each open to the public and available to provide services a minimum of 30 hours per week. All hours and days of operation shall be subject to mutual agreement between Operator and Department and shall be posted in a manner clearly visible to the public. Operator may not change hours and days of operation without prior written approval from the Department; such changes must be announced to the public no less than seven (7) calendar days before they become effective. Operator must notify Department of planned closures no less than 14 calendar days before the closure, and must post notice of said closure for public view. In the event that the Operator's veterinarian will be absent, Operator may retain the temporary services of a licensed veterinarian to perform necessary surgeries in the absence of the Operator's veterinarian, subject to Department disapproval. The Department reserves the right to have its own veterinary staff or other veterinarian perform said surgeries if the Operator's veterinarian is absent, and in such cases, Operator shall reimburse the Department for these services.



(f) *Equipment and Supplies.* Operator shall obtain, at its own expense, all equipment and supplies to be used in the operation of the Northeast Animal Care Center, including all food, medical supplies, medicines, cleaning agents, microchips, tools, anesthesia machines, autoclaves, and any other necessary tools, instruments, supplies, and equipment. Operator shall maintain in good working order, at its own expense, all equipment used in the operation of the Northeast Animal Care Center, and shall ensure that repairs or replacement of equipment does not unreasonably interrupt its services.

(g) *Equipment Purchase Option.* At the end of the term of this Agreement, and upon mutual agreement, Department may purchase from the Operator, at a mutually-agreed depreciated price consistent with equipment of comparable age and use, Operator's equipment used in the operation of the Northeast Animal Care Center. However, the Department shall be under no obligation to make such purchases.

(h) *Cost of Supplies, Services and Personnel.* The cost of setting up, staffing, maintaining and performing services under this Agreement shall be the Operator's sole responsibility. Notwithstanding the foregoing, City shall reimburse Operator for additional staff, labor, veterinary and other expenses, including but not necessarily limited to overtime wages, incurred by Operator in the event (a) the average number of animals being housed for transfer pursuant to subparagraph (i) below exceed seventy (70) animals in any 2-week period; or (b) if, as a result of Emergencies, Operator is required to house more than one hundred (100) animals for more than a forty-eight (48) hour period. Operator shall attempt to minimize any additional expenses through the use of volunteers; however, within 30 days of the end of such Emergency, City shall reimburse Operator for such additional expenses. Alternatively, City may use its own staff, under the direction of Operator, to provide additional resources to mitigate or avoid reimbursing Operator in the event of the above occurrences. In the event of such Emergency situation, Operator and City shall use their best efforts to cooperatively manage the facility and expenses.

(i) *Use by City.* The City may use some of the Care Center space at no cost to the City when City requests such space to temporarily house overflow animals in the event of Emergencies requiring temporary holding spaces for large animals or a large number of animals. In addition, City will be able to house animals that are being transferred to other municipalities or organizations outside of Los Angeles County. Operator shall cooperate with the City to make excess kennel and such other spaces available. Such use by the City will count toward the 100 minimum animals that Operator is required to have at any time. Operator shall house more than one animal per cage space when such housing is feasible and safe and maintain the Care Center in a manner that provides adequate space for such City use.

(l) With respect to animals being housed for transport to other municipalities or organizations, the City shall be solely responsible for (a) organizing such transports; (b) medical, veterinary, and other costs and certificates associated with transporting the animals; and (c) staffing the transports. Operator, may, at its sole discretion elect to assist organizationally, logistically, or medically with such transports, but shall have no contractual obligation beyond housing, feeding, and general care-taking of the animals at the shelter. Operator shall not be required to house animals that are medically or behaviorally unsuitable for transport and shall promptly notify the City of such animals.

(2) City acknowledges that Operator is equipped and staffed to care only for dogs, cats, and rabbits. In the event of an Emergency requiring other species of animals to be housed and cared for at the Care Center, City shall provide staff capable of caring for such animals.

(3) Operator shall not be required to move, relocate or find other accommodations for animals already housed at the Care Center to make room for additional animals pursuant to this paragraph if such move, relocation or other accommodations would result in animal neglect or require relocation to another facility.

(4) Operator shall have the discretion to provide veterinary services to all animals housed at the Care Center, regardless of whether ownership is with Operator or City.

(5) City shall use commercially reasonable and good faith efforts to provide at least 72 hours advance notice to Operator of any circumstances that may require Operator to house overflow animals pursuant to this paragraph.

(6) Operator shall permit Animal Control Officers the use of some space in the Center for administrative functions during normal business hours, such as to receive and make service calls when working in the general area, specifically excluding animal intake functions. Operator shall have no obligation to provide computers, telephone equipment or administrative support for use by the City's Animal Control Officers.

### **Section 3.3. Maintenance and Repair.**

(a) *Maintenance and Security.* The Department of General Services ("GSD") shall maintain in good order, condition, and repair the Northeast Animal Care Center and every part thereof, including, but not limited to: windows and plate glass windows; interior and exterior walls; floors and ceilings; interior and exterior doors; fixtures; electrical facilities and equipment; plumbing fixtures and plumbing; and restrooms. GSD agrees to maintain and repair, at GSD's sole cost and expense, all of the GSD improvements at the Northeast Animal Care Center, except for damage caused by the negligence or willful misconduct of Operator, at which time GSD shall bill the Operator for the work performed, and Operator shall pay such bill within thirty (30) days of receipt of the bill. The Operator may not change the locks without the prior written consent of GSD, which consent shall be in the GSD's sole and absolute discretion, and which consent shall require that GSD and the Department be provided with a complete set of all new keys. Operator shall promptly notify GSD of any maintenance issues or needed repairs including but not limited to plumbing and electrical issues.

(b) *Janitorial.* The Operator shall be responsible for providing and paying for its own janitorial/cleaning/housekeeping services and trash collection. The Operator shall keep clean the Northeast Animal Care Center and every part thereof, including, but not limited to, windows, interior walls, floors and ceilings, doors, fixtures, appliances, plate glass windows and restrooms. The Operator shall promptly remove all non-hazardous trash and waste generated from its operations.

(c) *No Repair Obligation by the Department of General Services.* Notwithstanding the Department of General Services' obligation to maintain the Northeast Animal Care Center in

good working order as stipulated in Section 3.3, the Department of General Services shall have no further obligation to repair, remodel, replace, and/or reconstruct any improvement at the Northeast Animal Care Center. In the event the Care Center becomes unusable for the purposes provided herein, the Department of General Services, the Department and the Operator agree they shall meet and discuss necessary repairs or remodeling to restore the Northeast Animal Care Center to a usable condition. If no agreement can be reached however, the Operator's sole remedies shall be to either correct the deficiencies at its own expense or to terminate this Agreement upon thirty (30) days prior written notice and provide a copy to the Department, and the Operator waives any other remedy, whether in damages or in specific performance.

(d) *Rights Reserved By the Department of General Services.* Without limiting any rights the City may otherwise have under this Agreement, the Department of General Services specifically reserves the right from time to time, subject to its use of reasonable efforts to minimize interference with Operator's use and occupancy of the Northeast Animal Care Center and without compensation to Operator for inconvenience or otherwise:

(i) To install, use, maintain, repair, replace and relocate pipes, ducts, conduits, wires, fixtures and appurtenant meters and equipment for service to the Northeast Animal Care Center and/or other parts of the building, in which case the City shall have responsibility for the disturbance, if any, of asbestos resulting therefrom; and

(ii) To make changes to the Northeast Animal Care Center's design and layout, including without limitation, changes in the location, size, shape and number of entrances, loading and unloading areas, ingress, egress, direction of traffic, walkways, and parking areas.

**Section 3.4. No Encumbrances.** The Operator shall not do any act or thing that will create any Encumbrance against the Northeast Animal Care Center and shall promptly remove any Encumbrance against the Northeast Animal Care Center, unless the Encumbrance came into existence as a result of an act of or omission by the City or a Person claiming through it which in turn was not caused by an act or omission of the Operator. The Operator shall not be deemed to be in default hereunder if the Operator continuously, diligently and in good faith contests any such Encumbrance, or the validity thereof (or causes such contest), by appropriate legal proceedings that shall operate to prevent the foreclosure of any such Encumbrance, *provided* that the Operator has given (i) advance notification to the City that it is the intent of the Operator to contest the validity or collection thereof or cause such contest and (ii) unless a bond or other security is provided in connection with such proceedings, a satisfactory indemnity to the City or deposit with the City a letter of credit, title insurance endorsement (or similar instrument), indemnity bond, surety bond, cash or eligible investment reasonably satisfactory to the City in an amount equal to the amount of the claim or Encumbrance, plus such interest and penalties, court costs, or other charges as the City may reasonably estimate to be payable by the Operator at the conclusion of such contest or as is required to provide insurance over any potential Encumbrance; *provided, however*, that in the event such Letter of Credit, cash or Eligible Investment shall be so deposited, the same shall be held until such claim or other imposition shall have been released and discharged and shall thereupon be returned to the Operator, less any amounts reasonably expended by the City to procure such release or discharge, or any loss, cost,

damage, reasonable attorneys' fees or expense incurred by the City by virtue of the contest of such Encumbrance.

**Section 3.5. Rights of the City to Access and Perform Work on the Northeast Animal Care Center**

(a) *Reservation of Rights.* The City reserves (for itself and any of its Representatives) and shall, at all times during the Term, have the right to enter the Northeast Animal Care Center and each and every part thereof at all reasonable times and upon reasonable prior notice to perform each of the following at the City's own cost and expense (other than if pursuant to clause (ii) or (iii)):

(i) to inspect the Northeast Animal Care Center or determine whether or not the Operator is in compliance with its obligations under this Agreement or applicable Law;

(ii) if a Operator Default then exists, to make any necessary repairs to the Northeast Animal Care Center and perform any work therein pursuant to Section 12.1(b)(iii);

(iii) in the event of an emergency or danger that threatens to cause injury to individuals (or damage to property) or to impair the continuous operation of the Northeast Animal Care Center and if the Operator is not then taking all necessary steps to rectify or deal with said emergency or danger, to take actions as may be reasonably necessary to rectify such emergency or danger (in which case, no notice shall be necessary);

(iv) as may be necessary to design, construct, operate, service, manage, maintain, repair, rehabilitate or replace any Affected Property owned or controlled by the City that is located within or adjacent to the Center, including, without limitation, congestion, management equipment and signage, utilities and storage and maintenance facilities located within portions of the Affected Property that are located within the Center;

(v) to design, construct, operate, service, manage, maintain, repair, rehabilitate or replace any Affected Property;

(vi) to (A) install, design, manage, maintain, repair and rehabilitate any existing or future utilities or similar services (whether provided by the City or third parties at the City's instruction) in, on, under, across, over or through the Northeast Animal Care Center (including water and sewer lines, power transmission lines, fiber optic cable, other communications and other equipment), (B) grant easements and rights on, over, under or within the Northeast Animal Care Center for the benefit of suppliers or owners of any such utilities or services and (C) use the Northeast Animal Care Center in connection with any such installation, design, management, maintenance, repair or rehabilitation (*provided* that notwithstanding the foregoing clauses (A), (B) and (C), the Operator shall have the right, at all times during the Term, to install, design, manage, maintain, repair and rehabilitate utilities or other services for its own account (and not for lease, resale or service to third parties) to the extent that the said utilities or services are necessary for the Northeast Animal Care Center Operations); and



(vii) to, solely in accordance with the terms hereof, do any other act or thing that the City may be obligated to do or have a right to do under this Agreement.; *provided, however*, that the City shall not be obligated to make any payments to the Operator for such access and the City shall use reasonable efforts to minimize interference with the Northeast Animal Care Center Operations in connection with any entry on the Northeast Animal Care Center pursuant to this Section 3.5(a).

(b) *Effect of Reservation.* Any reservation of a right by the City and any of their Representatives, grantees, tenants, mortgagees, licensees and others claiming by, through or under the City to enter the Northeast Animal Care Center and to make or perform any repairs, alterations, restoration or other work in, to, above, or about the Northeast Animal Care Center which is the Operator's obligation pursuant to this Agreement, shall not be deemed to (i) impose any obligation on the City to do so, (ii) render the City liable to the Operator or any other Person for the failure to do so or (iii) relieve the Operator from any obligation to indemnify the City as otherwise provided in this Agreement. Nothing in this Agreement shall impose any duty upon the part of the City to do any work required to be performed by the Operator hereunder and performance of any such work by the City and any of their Representatives, grantees, tenants, mortgagees, licensees and others claiming by, through or under the City shall not constitute a waiver of the Operator's default in failing to perform the same.

**Section 3.6. Payment of Taxes.** The Operator shall pay when due all Taxes payable during the Term in respect of the operations at or conduct of business in or from the Northeast Animal Care Center, including any Taxes imposed on customers of the Northeast Animal Care Center as required by the applicable Law. Operator shall have no obligation whatsoever to pay property taxes assessed against the property; City shall have sole responsibility for paying any and all property taxes.

**Section 3.7. Los Angeles City Business Tax.** Operator represents that it will obtain and will hold from the time of Closing through the End Date, the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the Term of this Agreement, Operator shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**Section 3.8. Utilities.** The Operator shall pay when due all charges (including all applicable Taxes and fees) for telephone and other utilities and services used in the Northeast Animal Care Center Operations or supplied to the Northeast Animal Care Center during the Term. Upon request of the City, the Operator shall forward to the City, within 15 days following the respective due dates, official receipts, photocopies thereof, or other evidence satisfactory to the City, acting reasonably, of the payment required to be made by the Operator in accordance with this Section 3.8. The City does not warrant that any utility services will be free from interruptions caused by war, insurrection, civil commotion, riots, acts of God, government action, terrorism, repairs, renewals, improvements, alterations, strikes, lockouts, picketing, whether legal or illegal, accidents, inability to obtain fuel or supplies or any other causes, and any such interruption of utility services in and of itself shall never be deemed a disturbance of the Operator's use of the Northeast Animal Care Center, or render the City liable to the Operator for damages or relieve the Operator from performance of the Operator's obligations under this

Agreement. The City shall pay when due all charges (including all applicable Taxes and fees) for gas, electricity, and water supplied to the Northeast Animal Care Center during the Term, which amount when combined with the costs of having GSD maintain the Care Center in good order, condition, and repair as provided in Section 3.3 above, shall not to exceed \$200,000 annually. This amount may be adjusted annually in the GSD budget by the City Council to reflect increases in the cost of material or gas, electricity, and water. Any costs in excess of the annual maximum shall be the responsibility of Operator, and Operator shall forward to the City, within 30 days following the receipt of a bill, the amount due, if any.

**Section 3.9. Notices of Defaults and Claims.** The Operator shall promptly give notice to the City (i) if the Operator becomes aware that a Default has occurred under this Agreement (*provided, however*, that the failure to give such notice shall not constitute an independent Default) and (ii) of all material claims, proceedings, disputes (including labor disputes) or litigation in respect of the Operator pertaining to the Northeast Animal Care Center or the City or the Northeast Animal Care Center Operations (whether or not such claim, proceeding or litigation is covered by insurance) of which the Operator is aware (other than as a result of a notice to the Operator from the City). The Operator shall provide the City with all reasonable information requested by it from time to time concerning the status of such claims, proceedings or litigation.

**Section 3.10. Name and Advertisements.**

(a) *Names.* The Operator shall not have the right to sell, lease, or license any naming rights for the Northeast Animal Care Center, but may use its own name, logos and trademarks in conjunction with the operation and advertisement of the Center so as to clearly indicate to that Best Friends Animal Society is operating an adoption and spay/neuter program from the facility. Upon approval of the City as to content, Operator may secure such an on-site sign or banner on the outside of the Center identifying that Best Friends is operating a pet adoption and spay/neuter facility at the Care Center, such as the "Best Friends Pet Adoptions and Spay Neuter Services" as attached hereto as **Attachment D** upon obtaining prior approval (and any required permits) from the City's Department of Building & Safety for the sign or banner. The Center will retain the name "Northeast Animal Care Center" whose signage will remain visible at all times, and the City reserves the right at its sole discretion to change its own names, logos, or marks for the Northeast Animal Care Center. Any uses of the City's names, logos, or marks shall be subject to City approval of the location and manner of use and subject to a separate License Agreement.

(b) *Advertisements.* The Operator shall have the right to advertise its services in and about the Center *provided* that all advertisements shall comply with (i) the advertising and signage policy, rules and regulations of the City and the Department regarding interior or exterior signage and (ii) shall comply with all City codes and requirements and directives concerning outside signage, including obtaining all required permits from the Department of Building & Safety. Any advertisement in violation of the Los Angeles Municipal Code, City directives or the Injunction is expressly prohibited.

(c) *Signage.* Upon written approval of the City, Operator shall have the right to use its own name, logos, and trademarks in conjunction with signage placed on, in and around



the Northeast Animal Care Center. The size and location of such signage shall comply with the signage policy, rules and regulations of the City, and may not cover or otherwise obscure existing Care Center signage. Any signage in violation of the Los Angeles Municipal Code, City directives or the Injunction is expressly prohibited. All signs and sign permits will be for on-site signs only, and will not be transferable to other locations. Upon the termination or expiration of the Agreement, the Operator shall remove the sign or banner and shall have no further rights to the signage or pursuant to the sign permit.

**Section 3.11. Police, Fire, Emergency and Public Safety Access Rights.** At all times during the Term and without notice to the Operator (i) any police, fire and emergency services and any other security or emergency personnel retained by or on behalf of the City shall have access, as required by such services or personnel, to the Northeast Animal Care Center; (ii) the City shall have access, as required by the City, to the Northeast Animal Care Center as necessary for the protection of public safety; *provided, however*, that inspections by the City for purposes of determining whether or not the Operator is in compliance with its obligations under this Agreement or applicable Law shall be undertaken pursuant to Section 3.4(a)(i); and (iii) any Governmental Authority with jurisdiction over the Northeast Animal Care Center shall have access to the Northeast Animal Care Center as necessary for emergency management and homeland security purposes, including the prevention of or response to a public safety emergency.

**Section 3.12. Payments by the City.** The Operator acknowledges and agrees that if the City is required under applicable Law of general application (except with respect to Laws imposed by the City itself) to withhold a portion of any payment that the City is obligated to make to the Operator under this Agreement, the City will be deemed to have satisfied such payment obligation to the Operator to the extent of such withholding by the City.

**Section 3.13. Operating Standards -- Operator Changes.** If the Operator, at its cost and expense, wishes to implement and use operating standards other than the Operating Standards adopted in this Agreement, the Operator must provide notice of such proposed operating standards to the City for Approval. The Operator's proposed operating standards must be accompanied by an explanation of the Operator's rationale for making its proposal and all relevant supporting information, certificates, reports, studies, investigations and other materials as are necessary to demonstrate that the Operator's proposed operating standards are reasonably designed to achieve the objectives of the applicable Operating Standards. The City may request any additional supporting information, certificates, reports, studies, investigations and other materials as are reasonably required by the City to determine if the Operator's proposed operating standards are reasonably designed to achieve the objectives of the applicable Operating Standards. Approval of the Operator's proposed operating standards may be withheld, delayed or conditioned only if the City reasonably determines that the Operator's proposed operating standards are not reasonably designed to achieve the objectives of the applicable Operating Standards. Until the City provides its Approval for the implementation of the Operator's proposed operating standards, the Operator shall not implement the proposed operating standards and shall implement and comply with the Operating Standards. The Operator's proposed operating standards shall be deemed incorporated into the Operating Standards upon written Approval by the City in accordance with the terms hereof.

**Section 3.14. Operating Standards – City Changes.** The City shall have the right, at any time during the Term, to modify or change the Operating Standards upon notice to the Operator to comply with any new City Law applicable to the Northeast Animal Care Center Operations. In the event the City modifies the Operating Standards in accordance with the immediately preceding sentence, the City, at its cost and expense, shall perform all work required to implement, if any, and shall comply with all such modifications and changes and in no event shall the Operator be excused from compliance with any such modification or change. Operator may, however, terminate the Agreement without further cause and without penalty where Operator deems the resulting modified or changed operating standards to impose an unreasonable financial or administrative burden or to be incompatible with the Operator's goals, mission, or philosophy.

**Section 3.15. Public Purpose Requirements.**

(a) The Parties agree that during the Term of this Agreement the City retains its Reserved Powers to enforce this Agreement and the Operating Standards to ensure that the Northeast Animal Care Center will be dedicated and used at all times for public benefit purposes intended to promote and protect the health, safety and welfare of animals and people.

(b) In order to assure that the Northeast Animal Care Center continues to operate in a manner that benefits the public and fulfills the public purposes set forth in Section 3.15(a), the Northeast Animal Care Center shall be operated consistent with the Operator's internal policies and procedures manuals dated October 3, 2011.

**Section 3.16. Leases, Covenants and Easements.** Operator must comply with the provisions of all leases, covenants and easements on the Center and in case of any conflict between the provisions of this Agreement and the leases, covenants and easements on any of the Center, the provisions of the leases, covenants and easements will control.

## **ARTICLE 4 MODIFICATIONS**

**Section 4.1. Operator Requests.** If the Operator wishes at any time during the Term to make a fundamental change in the dimensions, character, quality or location of any part of the Northeast Animal Care Center, then the Operator may submit to the City, for approval, an Operator Request with respect to such change and shall submit to the City for its approval specific plans with respect to any such work. Changes that only affect Operator's personal property shall not be considered "fundamental changes." The Operator shall be responsible for all amounts required to implement an approved Operator Request (and any costs or losses incurred in connection therewith). No Operator Request shall be implemented unless and until such Operator Request has been approved by the City.

**Section 4.2. Performance of Modifications.** Subject to the other provisions of this Article 4, the Operator shall ensure that an approved Operator Request is performed in a good and workmanlike manner and diligently complies with and is implemented in such manner that the costs and delays relating thereto are minimized.

## ARTICLE 5 ALTERATIONS AND IMPROVEMENTS

### Section 5.1.       Alterations and Improvements.

(a) *City Approval.* With the prior written approval of City, Operator may make alterations and improvements to the Center ("Alterations") which do not affect the (i) exterior appearance of the Center, or (ii) structural aspects of the Center, as long as Operator pays for the entire cost of such Alterations, and as long as Operator agrees to remove said Alterations upon the expiration or termination of the Agreement, if requested by the City. Any time Operator proposes to make such Alterations, Operator shall provide City with prior written notice of the proposed Alterations, together with the plans and specifications. Notwithstanding anything to the contrary set forth above, Operator may make, without City's prior written consent but after seven (7) days' notice to City, Alterations which (i) do not require any structural or any substantial modification to the Center, (ii) do not affect the Structure Systems, (iii) do not affect the exterior appearance of the Center, and (iv) do not cost in excess of Fifty Thousand Dollars (\$50,000), adjusted for inflation from the Closing Date. Installation and placement of exterior building signage shall require prior written notice to City,. Operator's placement of non-structural visual barriers such as moveable partitions in the interior of the shelter shall not be subject to either the notice or approval requirements. However, visual barriers will be removed by Operator if so requested by the City.

(b) "*Structure Systems*" - *Defined.* As used in this Article 5, the phrase "Structure Systems" shall mean any machinery, transformers, duct work, conduit, pipe, bus duct, cable, wires, and other equipment, facilities, and systems, to the extent within the Center, designed to supply heat, ventilation, air conditioning and humidity or any other services or utilities, or comprising or serving as any component or portion of the electrical, gas, steam, plumbing, sprinkler, communications, alarm, security, or fire/life safety systems or equipment, or any other mechanical, electrical, electronic, computer, or other systems or equipment which service the Center in whole or in part; *provided, however*, that such equipment, facilities, and systems which serve solely the Center or Operator with respect to communications, alarm, security, and computer systems shall not be considered part of the Structure Systems to the extent that such equipment, facilities, and systems may be accessed and altered without interference with any Structure Systems.

(c) *Manner of Construction.* City may impose reasonable requirements as a condition of its consent to all Alterations or repairs of the Center or about the Center, including, but not limited to, the requirement that upon City's request, Operator shall, at Operator's expense, remove such Alterations upon the expiration or any early termination of the Term, and/or the requirement, with respect to work on the Structure Systems, that Operator utilize for such purposes only contractors, materials, mechanics, and material providers approved by City. City may require Operator to provide City, at Operator's sole cost and expense, a lien and completion bond in an amount equal to one and one-half times the estimated cost of such improvements, to insure City against any liability for claims or purported mechanic's and materialmen's liens and to insure completion of the work. Operator shall construct such Alterations and perform such repairs in conformance with any and all applicable rules and regulations of any federal, state, county or municipal code or ordinance and pursuant to a valid building permit, issued by the City, in



conformance with City's reasonable construction rules and regulations. All work with respect to any Alterations must be done in a good and professional manner and diligently prosecuted to completion to the end that the Premises shall at all times be a complete unit except during the period of work. In performing the work of any such Alterations, Operator shall have the work performed in such manner as not to obstruct access to the Center. Upon completion of any Alterations, Operator agrees at the request of City to cause a Notice of Completion to be recorded in the office of the Recorder of the County of Los Angeles in accordance with Section 3093 of the California Civil Code or any successor statute, and Operator shall deliver to City a reproducible copy of the "as-built" drawings, if any, of the Alterations.

(d) *Construction Insurance.* In the event Operator makes any Alterations, Operator agrees to carry "Builder's All Risk" insurance in an amount equal to the value of construction and materials on hand.

(e) *Payment For Alterations.* Where the work under this Article 5 is performed by City and/or City's contractor, the charges for such work shall be payable within sixty (60) days of the receipt by Operator of a sufficiently itemized invoice and billing therefor upon the substantial completion of such work. Where the work under this Article 5 is performed by Operator or Operator's contractor, upon completion of such work, Operator shall deliver to City, where applicable, evidence of payment, contractors' affidavits and full and final waivers of all liens for labor, services, and materials.

(f) *Ownership of Alterations.* All Alterations, fixtures, and equipment which may be installed or placed in or about the Center, from time to time, shall be at the sole cost of Operator, and as a condition to City's consent to any Alteration, City requires that Operator remove any Alteration upon the expiration or early termination of the Term, unless City agrees in writing otherwise, Operator must remove at Operator's expense such Alterations and to repair any damage to the Center caused by such removal. If Operator fails to complete such removal or to repair any damage caused by the removal of any Alterations, City may do so and may charge the cost thereof to Operator. Any Alterations, fixtures, and equipment remaining at the Center after the vacation of the Premises by Operator shall be deemed abandoned and may be disposed of or kept by the City.

(g) *Equipment Purchase Option.* At the end of the term of this Agreement, and upon mutual agreement, Department may purchase from the Operator, at a mutually-agreed depreciated price consistent with equipment of comparable age and use, Operator's equipment used in the operation of the Northeast Animal Care Center. However, the Department shall be under no obligation to make such purchases.

(h) *Mechanics' Liens.* Operator shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Operator at or for use in the Center, which claims made against City and/or purport to be secured by any mechanic's or materialmen's lien against the Center, or any interest therein. If Operator fails to pay such claims or demands or if Operator shall, in good faith, contest the validity of any such lien, claim or demand, then Operator shall, at its sole expense, defend itself and City against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the City or the Center, upon the condition that if City shall require, Operator shall furnish

to City a surety bond satisfactory to City in an amount equal to such contested lien, claim or demand indemnifying City against liability for the same and holding the Northeast Animal Care Center property free from the effect of such lien or claim. In addition, City may require Operator to pay City's reasonable attorneys' fees and costs in participating in such action if City shall decide it is to City's best interest so to do.

(i) *Nonresponsibility and Work Commencement Notices.* City shall have the right at all times to post and keep posted on the Center any notices permitted or required by law, or which City shall deem proper for the protection of City and the Center, and any other party having an interest therein, from liens, and Operator shall give to City at least ten (10) business days prior written notice of the expected date of commencement of and work relating to Alterations or additions to the Center.

(j) *Failure to Comply with Conditions.* Should Operator make any Alterations without the prior approval of City, or, where required, use a contractor not expressly approved by City, or otherwise fail to comply with the conditions of this Article 5, City may, at any time during the Term, require that Operator remove any part or all of the same.

(k) *Environmental Compliance.* City represents and warrants that the Northeast Animal Care Center was built in compliance with the Environmental Laws of the United States, State of California, and the County and City of Los Angeles. In the event of a change in federal or state Environmental Laws requiring structural changes to the Northeast Animal Care Center in order to remain in compliance with applicable Environmental Laws, including those governing the disposal of animal waste, City shall bear the expense of, and be liable for same. The Operator is responsible for compliance with CEQA, if applicable, in regard to any alterations and improvements performed or requested by the Operator, and is responsible for compliance with CEQA in the management and operation of its programs and activities at the Northeast Animal Care Center.

## **ARTICLE 6 FEES; REVENUES**

**Section 6.1. Fee Revenues.** The Operator shall, at all times during the Term, (i) have the right to establish, collect and enforce payment of fees set forth in **Attachment C** (Maximum Fees) for services provided at the Northeast Animal Care Center in accordance with the provisions of Article 6 of this Agreement and (ii) have the right, title, entitlement and interest in these fees during the Term of this Agreement. For the Term of this Agreement the Fees shall not exceed the rates set forth in **Attachment C** (Maximum Fees) adjusted for inflation not to exceed an annual 5% and commencing one year from the date of execution of the Agreement.

**Section 6.2. Fee Rate Notices.** The Operator shall provide to the City, no later than the end of each fiscal year, notice of the fees and types of fees charged by the Operator for services provided at the Northeast Animal Care Center. Such notice shall include the fees and types of fees charged during the prior fiscal year and expected to be charged during the next fiscal year. Such notice shall be provided by the Operator to the City solely for informational purposes and, consistent with and to the extent permitted by this Article 6 and **Attachment C**, such rates may

be changed at any time and from time to time by the Operator without the prior approval of the City, but notice of such changes shall be given to the City. Consistent with and to the extent permitted by this Article 6 and **Attachment C**, Operator may charge different types of fees as it determines are appropriate in its discretion, including variable fees, weekday, weekend and special event fees and discounts to be determined by the Operator.

## **ARTICLE 7 REPORTING; AUDITS; INSPECTIONS**

### **Section 7.1. Reports.**

(a) *Incident Management and Notifications.* The Operator shall provide notice to the City within 24 hours of all emergencies, and promptly provide notice to the City of all accidents and incidents occurring on or at the Northeast Animal Care Center, and of all claims in excess of \$50,000 made by or against the Operator, or potential claims in excess of \$50,000 that the Operator reasonably expects to make against, or to be made against it by, third parties. Notwithstanding the foregoing, Operator shall not be required to provide City with notice of worker injuries reported to Operator in accordance with its workplace policies and workers' compensation reporting requirements, except in situations resulting in death or great bodily injury.

(b) *Environmental Incident Management and Notifications.* The Operator shall provide notice to the City within 24 hours following the Operator's becoming aware of the discharge, dumping, spilling (accidental or otherwise) of any reportable quantity, as defined under applicable Environmental Law, of Hazardous Substances occurring on or at the Northeast Animal Care Center and the location at which the incident has occurred, the time, the agencies involved, the damage that has occurred and the remedial action taken.

(c) *Financial Reports.* Until the End Date, the Operator shall deliver to the City (i) within 130 days of the end of each calendar Year, a copy of audited financial statements of Best Friends Animal Society, including its Statement of Financial Position, Statement of Activities, Statement of Cash Flows, and Notes to the Financial Statements with the report of the independent certified public accountant. Such financial statements shall reflect the consistent application of such accounting principles throughout the periods involved, except as disclosed in the notes to such financial statements.

### **Section 7.2. Information.**

(a) *Furnish Information.* At the request of the City, the Operator shall, at the Operator's cost and expense and at any and all reasonable times during the Term: (i) make available or cause to be made available (and, if requested by the City, furnish or cause to be furnished) to the City all Information relating to the Northeast Animal Care Center Operations, this Agreement or the Northeast Animal Care Center as may be specified in such request and as shall be in the possession or control of the Operator or its Representatives, and (ii) permit the City, after giving 10 Business Days' prior notice to the Operator (which notice shall identify the persons the City requests to be present for an interview and describe with reasonable specificity the subject matter to be raised in the interview), to discuss the obligations of the Operator under



this Agreement with any of the directors, officers, employees or managers of the Operator, the Operator or their respective Representatives (it being agreed that the Operator and/or its legal counsel shall have the right to be present during any such discussions with the Operator or Representatives of the Operator), for the purpose of enabling the City to determine whether the Operator is in compliance with this Agreement, *provided* that, in the case of investigations of possible criminal conduct or City ordinance violations, no prior notice shall be required to the Operator. For the avoidance of doubt, this Section 7.2(a) does not impose a requirement to retain Information not otherwise retained in the normal course of business or required to be retained by applicable Law. Furthermore, said obligation to furnish information shall not require Operator to make available or otherwise disclose information regarding the identity of its donors, including donors directing funds to support the operations of the Northeast Animal Care Center. Operator's donor list shall at all times be the confidential, privileged and proprietary information of Operator, and the donor list shall be solely owned by Operator.

(b) *Confidentiality.* Unless disclosure is required by applicable Law, the City shall keep confidential any Information obtained from the Operator or its Representatives that (i) pursuant to the California Public Records Act, California Government Code, constitutes trade secrets or commercial or financial information (A) where the trade secrets or commercial or financial information are proprietary, privileged or confidential, or (B) where disclosure of the trade secrets or commercial or financial information may cause competitive harm and (ii) is designated as such by the Operator in writing to the City; *provided, however*, that the City shall have the right to determine, in its reasonable discretion, whether the California Public Records Act applies to any such Information; *provided further* that in the event the City determines that the California Public Records Act does not apply to any such Information, the City shall provide reasonable notice to, and shall consult with, the Operator prior to disclosure of such Information. In the event that the Operator requests the City to defend an action seeking the disclosure of Information that the City determines to be confidential pursuant to this Section 7(b) the Operator shall reimburse the City for the reasonable costs and expenses (including attorneys' fees of the prevailing party) incurred by the City in defending any such action.

### **Section 7.3. Inspection, Audit and Review Rights of the City.**

(a) *Audit Right.* In addition to the rights set out in Section 7.2, the City may, at all reasonable times, upon 10 Business Days' prior notice, except in the case of investigations of possible criminal conduct or City ordinance violations, in which case no prior notice shall be required, cause a Representative designated by it to, carry out an Audit of the Information required to be maintained or delivered by the Operator under this Agreement in connection with the performance of the Northeast Animal Care Center Operations for the purpose of verifying the information contained therein and shall be entitled to make copies thereof and to take extracts therefrom, at the City's expense, but, in any event, subject to Section 7.2(b). The Operator, at the cost and expense of the Operator, shall, at reasonable times, make available or cause to be made available to the City or its designated Representative such information and material as may reasonably be required by the City or its designated Representative for its purposes and otherwise provide such cooperation as may be reasonably required by the City in connection with the same.

(b) *Inspection Right.* The City and its Representatives shall, at all reasonable times and upon reasonable prior notice, have access to the Northeast Animal Care Center and every part thereof and the Operator, at the reasonable cost and expense of the Operator, shall and shall cause its Representatives to, furnish the City with every reasonable assistance for inspecting the Northeast Animal Care Center and the Northeast Animal Care Center Operations for the purpose of Auditing the Information or ascertaining compliance with this Agreement and applicable Law.

(c) *Tests.* The City and its Representatives shall, with the prior consent of the Operator (which shall not be unreasonably withheld, conditioned or delayed), except in the case of investigations of possible criminal conduct or City ordinance violations, in which case no consent shall be required, be entitled, at the sole cost and expense of the City, and at any time and from time to time, to perform or cause to be performed any test, study or investigation in connection with the Northeast Animal Care Center or the Northeast Animal Care Center Operations as the City may reasonably determine to be necessary in the circumstances and the Operator, at the cost and expense of the Operator, shall, and shall cause its Representatives to, furnish the City or its Representatives with reasonable assistance in connection with the carrying out of such tests, procedures, studies and investigations.

(d) *No Waiver.* Failure by the City or its Representatives to inspect, review, test or Audit the Operator's responsibilities under this Agreement or any part thereof or the Information, shall not constitute a waiver of any of the rights of the City hereunder or any of the obligations or liabilities of the Operator hereunder. Inspection, review, testing or Audit not followed by a notice of Operator Default shall not constitute a waiver of any Operator Default or constitute an acknowledgement that there has been or will be compliance with this Agreement and applicable Law.

(e) *No Undue Interference.* In the course of performing its inspections, reviews, tests and Audits hereunder, the City shall minimize the effect and duration of any disruption to or impairment of the Northeast Animal Care Center Operations or the Operator's rights or responsibilities under this Agreement, having regard to the nature of the inspections, reviews, tests and Audits being performed, except as necessary in the case of investigations of possible criminal conduct or City ordinance violations.

**Section 7.4. Audits, Assistance, Inspections and Approvals.** Wherever in this Agreement reference is made to the City or its Representatives providing assistance, services, Approvals or consents to or on behalf of the Operator or its Representatives or to the City or its Representatives performing an Audit or inspecting, testing, reviewing or examining the Northeast Animal Care Center, the Northeast Animal Care Center Operations or any part thereof or the books, records, documents, budgets, proposals, requests, procedures, certificates, plans, drawings, specifications, contracts, agreements, schedules, reports, lists or other instruments of the Operator or its Representatives, such undertaking by the City or its Representatives shall not relieve or exempt the Operator from, or represent a waiver of, any requirement, liability, Operator Default, covenant, agreement or obligation under this Agreement or at law or in equity and shall not create or impose any requirement, liability, covenant, agreement or obligation (including an obligation to provide other assistance, services or Approvals) on the City or its

Representatives not otherwise created or imposed pursuant to the express provisions of this Agreement.

## ARTICLE 8 COMPLIANCE WITH LAWS

**Section 8.1. Compliance with Laws.** The Operator must at all times at its own cost and expense observe and comply, in all material respects, and cause the Northeast Animal Care Center Operations to observe and comply, in all material respects, with all applicable Federal, California and local Laws now existing or later in effect that are applicable to it or such Northeast Animal Care Center Operations, including but not limited to Federal, State and local laws pertaining to the operation of animal shelters and the care of animals and with the terms of the Injunction as it pertains to the operation of the Northeast Animal Care Center and those Laws expressly enumerated in this Article 8. The Operator must notify the City within seven days after receiving notice from a Governmental Authority that the Operator may have violated any Laws as described above.

**Section 8.2. Injunction.** Operator shall, at all times, be required to comply with the Injunction. Consistent with the restrictions in the Injunction, **with respect to the operation of the Northeast Animal Care Center only**, Operator is prohibited from and shall not knowingly:

- (a) engage in TNR for feral cats at the Northeast Animal Care Center;
- (b) perform spay or neuter surgeries on feral cats or ship feral cats from the Care Center to other locations for spay or neuter surgeries;
- (c) disseminate TNR information from Northeast Animal Care Center nor have a link on any Northeast Animal Care Center website to TNR information or groups;
- (d) move feral cats to other locations for TNR purposes;
- (e) knowingly release feral cats from the Northeast Animal Care Center to TNR groups or individuals for release or return into colonies;
- (f) develop or distribute TNR literature from or associated with the Northeast Animal Care Center;
- (g) refer complaints about feral cats to TNR groups or individuals who engage in TNR;
- (h) conduct any educational, outreach, or development programs related to feral cats or TNR of feral cats.

Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to preclude Operator from engaging in TNR activities generally from any other facility or location, from disseminating TNR information, or linking to other organizations involved in TNR activity on or through its bestfriends.org website. Moreover, Operator shall not be precluded from informing individuals who affirmatively request information about TNR at the Northeast Animal Care

Center that "Because of an injunction against the City of Los Angeles, which owns this facility, we can't provide you with any information about TNR or engage in any TNR-related activities from this location."

### **Section 8.3. Non-Discrimination.**

(a) *Non-Discrimination In Use Of Premises.* There shall be no discrimination against or segregation of any person, or group of persons, on account of race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition in the use, occupancy, tenure, or enjoyment of the Northeast Animal Care Center or any operations or activities conducted on the Northeast Animal Care Center nor shall Operator or any person claiming under or through Operator establish or permit any such practice or practices of discrimination or segregation.

(b) *Non-Discrimination In Employment.* Operator agrees and obligates itself in the performance of this Agreement not to discriminate against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition.

(c) *Equal Employment Practices.* This Agreement is a contract with or on behalf of the City of Los Angeles for which the consideration is \$1,000 or more. Accordingly, during the performance of this Agreement, Operator further agrees to comply with Section 10.8.3 of the Administrative Code ("Equal Employment Practices"). By way of specification but not limitation, pursuant to Sections 10.8.3.E and 10.8.3.F of the Los Angeles Administrative Code, the failure of Operator to comply with the Equal Employment Practices provisions of this Agreement may be deemed to be a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to Operator. Upon a finding duly made that Operator has failed to comply with the equal employment practices provisions of this Agreement, this Agreement may be forthwith terminated.

(d) *Affirmative Action Program.* This Agreement is a non-construction contract with or on behalf of the City for which the consideration is \$100,000 or more. Accordingly, during the performance of this Agreement, Operator further agrees to comply with Section 10.8.4 of the Administrative Code ("Affirmative Action Program"), with respect to its operations at the Northeast Animal Care Center. By way of specification but not limitation, pursuant to Sections 10.8.4.E and 10.8.4.F of the Los Angeles Administrative Code, the failure of Operator to comply with the Affirmative Action Program provisions of this Agreement may be deemed to be a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to Operator. Upon a finding duly made that Operator has breached the Affirmative Action Program provisions of this Agreement, this Agreement may be forthwith terminated.

(e) *Equal Benefits Provisions.* This Agreement is subject to Section 10.8.2.1, Article 1, Chapter 1, Division 10 of the Administrative Code ("Equal Benefits Provisions") related to equal benefits to employees. Operator agrees to comply with the provisions of Section



10.8.2.1. By way of specification but not limitation, pursuant to Section 10.8.2.1.c of the Administrative Code, the failure of Operator to comply with the Equal Employment Practices provisions of this Agreement may be deemed to be a material breach of this Agreement. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to Operator. Upon a finding duly made that Operator has failed to comply with the Equal Employment Practices provisions of this Agreement, this Agreement may be forthwith terminated.

(f) *Service Contract Worker Retention Ordinance.* This Agreement is subject to the Service Contract Worker Retention Ordinance (“SCWRO”) (Section 10.36, *et seq.*, of the Administrative Code. The SCWRO requires that, unless specific exemptions apply, all employers (as defined) under contracts that are primarily for the furnishing of services to or for the City and that involve an expenditure or receipt in excess of \$25,000 and a contract term of at least three (3) months shall provide retention by a successor contractor for a ninety-day (90-day) transition period of the employees who have been employed for the preceding twelve (12) months or more by the terminated contractor or subcontractor, if any, as provided for in the SCWRO. Under the provisions of Section 10.36.3(c) of the Administrative Code, City has the authority, under appropriate circumstances, to terminate this Agreement and otherwise pursue legal remedies that may be available if City determines that the subject contractor violated the provisions of the SCWRO.

(g) *Child Support Assignment Orders.* This Agreement is subject to Section 10.10, Article 1, Chapter 1, Division 10 of the Administrative Code related to Child Support Assignment Orders. Pursuant to this Section, Operator (and any subcontractor of Operator providing services to City under this Agreement shall (i) fully comply with all State and Federal employment reporting requirements for Operator’s or Operator’s subcontractor’s employees applicable to Child Support Assignment Orders; (ii) certify that the principal owner(s) of Operator and applicable subcontractors are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (iii) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code section 5230, *et seq.*; and (iv) maintain such compliance throughout the Term of this Agreement. Pursuant to Section 10.10.b of the Administrative Code, failure of Operator or an applicable subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Operator or applicable subcontractors to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default of this Agreement subjecting this Agreement to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Operator by City (in lieu of any time for cure provided in Section 12.1).

(h) *General Provisions: Living Wage Policy.* This Agreement is subject to the Living Wage Ordinance (“LWO”) (Section 10.37, *et seq.*, of the Administrative Code. The LWO requires that, unless specific exemptions apply, any employees of the Operator are covered by the LWO if any of the following applies: (1) the services are rendered on premises at least of portion of which are visited by substantial numbers of the public on a frequent basis, (2) any of the services could feasibly be performed by City employees if the awarding authority had the

requisite financial and staffing resources, or (3) the designated administrative agency of the City has determined in writing that coverage would further the proprietary interests of the City. Employees covered by the LWO are required to be paid not less than a minimum initial wage rate, as adjusted each year (July 1, 2009, levels: \$10.30 per hour with health benefits of at least \$1.25 per hour or otherwise \$11.55 per hour). The LWO also requires that employees be provided with at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and at least ten (10) additional days per year of uncompensated time pursuant to Section 10.37.2(b). The LWO requires employers to inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the federal Earned Income Tax Credit ("EITC") and to make available the forms required to secure advance EITC payments from the employer pursuant to Section 10.37.4. Operator shall permit access to work sites for authorized City representatives to review the operation, payroll, and related documents, and to provide certified copies of the relevant records upon request by the City. Whether or not subject to the LWO, Operator shall not retaliate against any employee claiming non-compliance with the provisions of the LWO, and, in addition, pursuant to Section 10.37.6(c), Operator agrees to comply with federal law prohibiting retaliation for union organizing.

(i) *Living Wage Coverage Determination.* The CAO has made the initial determination that this Agreement is subject to the LWO. Operator, although subject to the LWO, may be exempt from most of the requirements of the LWO if Operator qualifies for such exemption under the provisions of the LWO. Determinations as to whether an employer or employee is exempt from coverage under the LWO are not final, but are subject to review and revision as additional facts are examined and/or other interpretations of the law are considered. Applications for exemption must be renewed every two (2) years. To the extent Operator claims non-coverage or exemption from the provisions of the LWO, the burden shall be on Operator to prove such non-coverage or exemption, and, where applicable, renew such exemption.

(j) *Compliance; Termination Provisions and Other Remedies.* Living Wage Policy. If Operator is not initially exempt from the LWO, Operator shall comply with all of the provisions of the LWO, including payment to employees at the minimum wage rates, effective on the Execution Date of this Agreement, and shall execute a Declaration of Compliance Form contemporaneously with the execution of this Agreement. If Operator is initially exempt from the LWO, but later no longer qualifies for any exemption, Operator shall, at such time as Operator is no longer exempt, comply with the provisions of the LWO and execute the then-currently used Declaration of Compliance Form, or such form as the LWO requires. Under the provisions of Section 10.37.6(c) of the Los Angeles Administrative Code, violation of the LWO shall constitute a material breach of this Agreement and City shall be entitled to terminate this Agreement and otherwise pursue legal remedies that may be available, including those set forth in the LWO, if City determines that Operator violated the provisions of the LWO. The procedures and time periods provided in the LWO are in lieu of the procedures and time periods provided in Section 12.1 of this Agreement. Nothing in this Agreement shall be construed to extend the time periods or limit the remedies provided in the LWO.

(k) *Tax Registration Certificates and Tax Payments.* This Section 8.2(k) is applicable where Operator is engaged in business within the City of Los Angeles and Operator is required to obtain a Tax Registration Certificate ("TRC") pursuant to one or more of the



following articles (collectively "Tax Ordinances") of Chapter II of the Los Angeles Municipal Code: Article 1 (Business Tax Ordinance) [section 21.00, *et seq.*], Article 1.3 (Commercial Operator's Occupancy Tax) [section 21.3.1, *et seq.*], Article 1.7 (Transient Occupancy Tax) [section 21.7.1, *et seq.*], or Article 1.11 (Payroll Expense Tax) [section 21.11.1, *et seq.*]. Prior to the execution of this Agreement, or the effective date of any extension of the Term or renewal of this Agreement, the Operator shall provide to the CAO proof satisfactory to the CAO that Operator has the required TRCs and that Operator is not then currently delinquent in any tax payment required under the Tax Ordinances. City may terminate this Agreement upon thirty (30) days' prior written notice to Operator if City determines that Operator failed to have the required TRCs or was delinquent in any tax payments required under the Tax Ordinances at the time of entering into, extending the Term of, or renewing this Agreement. City may also terminate this Agreement upon ninety (90) days prior written notice to Operator at any time during the Term of this Agreement if Operator fails to maintain required TRCs or becomes delinquent in tax payments required under the Tax Ordinances and Operator fails to cure such deficiencies within the ninety (90) day period.

(l) *Slavery Disclosure Ordinance.* This Agreement is subject to the applicable provisions of the Slavery Disclosure Ordinance ("SDO") (Section 10.41, *et seq.*, of the Los Angeles Administrative Code. Unless otherwise exempt in accordance with the provision of the Ordinance, Operator certifies that it has complied with the applicable provisions of the Ordinance. Under the provisions of Section 10.41.2(b) of the Los Angeles Administrative Code, City has the authority, under appropriate circumstances, to terminate this Agreement and otherwise pursue legal remedies that may be available to City if City determines that the Operator failed to fully and accurately complete the SDO affidavit or otherwise violated any provision of the SDO.

(m) *Americans With Disabilities Act.* Operator hereby certifies that the Center will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations during the term of this Agreement. Operator will provide reasonable accommodations to allow qualified individuals with disabilities to have access to the Northeast Animal Care Center and have the benefit of the Animal Welfare Services in accordance with the provisions of the Americans with Disabilities Act. Operator will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by Operator, relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this Section 8.2(m).

(n) *Contractor Responsibility Ordinance.* This Agreement is subject to the Contractor Responsibility Ordinance ("CRO") (Section 10.40, *et seq.*, of the Los Angeles Administrative Code "LAAC") and the rules and regulations promulgated pursuant thereto as they may be updated. The CRO requires that, unless specific exemptions apply as specified in LAAC 10.40.4(a), lessees or licensees of City property who render services on the leased or licensed premises are covered by the CRO if any of the following applies: (1) the services are rendered on premises at least a portion of which are visited by substantial numbers of the public on a frequent basis, (2) any of the services could feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources, or (3) designated administrative agency of the City has determined in writing that coverage would further the proprietary interests of the City. Lessees or licensees of City property who are not exempt

pursuant to LAAC 10.40.4 (a) or (b), unless subject to the CRO solely due to an amendment to an existing lease or license, are required to have completed a questionnaire ("Questionnaire") signed under penalty of perjury designed to assist the City in determination that the lessee or licensee is one that has the necessary quality, fitness and capacity to perform the work set forth in the contract. All lessees or licensees of City property who are covered by the CRO, including those subject to the CRO due to an amendment, are required to complete the following Pledge of Compliance ("POC"):

(1) comply with all applicable federal state, and local laws and regulations in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees;

(2) notify the awarding authority within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the lessee or licensee did not comply with clause (1) of this Section 8.2(n) in the performance of the lease or license;

(3) notify the awarding authority within thirty (30) calendar days of all findings by a government agency or court of competent jurisdiction that the lessee or licensee has violated clause (1) of this Section 8.2(n) above in the performance of the lease or license;

(4) ensure within thirty (30) days (or such shorter time as may be required by the awarding authority) that subcontractors working on the lease or license submit a POC to the awarding authority signed under penalty of perjury; and

(o) The Operator shall:

(1) notify the awarding authority within thirty (30) calendar days after receiving notification that any governmental agency has initiated an investigation that may result in a finding that Operator did not comply with any applicable federal, state, or local law in the performance of this Agreement, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees;

(2) notify the awarding authority within thirty (30) calendar days of receiving notice of any findings by a government agency or court of competent jurisdiction that Operator violated any applicable federal, state, or local law in the performance of this Agreement including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees;

(3) notify the awarding authority within thirty (30) calendar days of becoming aware of any information regarding its subcontractors and investigations or findings regarding the subcontractor's violations of any applicable federal, state, or local law in the performance of this Agreement, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.

(p) Updates of information contained in Operator's responses to the Questionnaire must be submitted to the awarding authority within thirty (30) days of any changes to the responses if the change would affect Operator's fitness and ability to continue performing

this Agreement. Notwithstanding the above, Operator shall not be required to provide updates to the Questionnaire if Operator became subject to the CRO solely because of an amendment to the original lease or license. Operator shall cooperate in any investigation pursuant to CRO by providing such information as shall be requested by City. Operator agrees that City may keep the identity of any complainant confidential. Operator shall ensure that subcontractors who perform work on this Agreement abide by these same updating requirements including the requirement to:

(1) notify the awarding authority within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the subcontractor did not comply with any applicable federal, state, or local law in the performance of this Agreement, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees; and

(2) notify the awarding authority within thirty (30) calendar days of all findings by a government agency or court of competent jurisdiction that the subcontractor violated any applicable federal, state, or local law in the performance of this Agreement, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.

The requirement that Operator provide Questionnaires and updates to Questionnaire responses does not apply to subcontractors.

(q) If the Operator is not exempt from the CRO, Operator shall comply with all of the provisions of the CRO and this Agreement. Failure to comply with the provisions of the CRO, including without limitation the requirements that all responses to the Questionnaire are complete and accurate, to provide updates as provided therein and to correct any deficiencies within ten (10) days of notice by City, or failure to comply with the provisions of this Agreement shall constitute a material breach of this Agreement and City shall be entitled to terminate this Agreement and otherwise pursue any legal remedies that may be available, including those set forth in the CRO. Nothing in this Agreement shall be construed to extend the time periods or limit the remedies provided in the CRO.

## ARTICLE 9 INDEMNIFICATION

**Section 9.1. Indemnification by the Operator.** Except for the active negligence or willful misconduct of City, Operator undertakes and agrees to defend, indemnify and hold harmless City and any and all of City's boards, officers, agents, and employees from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to reasonable and necessary attorney's fees and cost of litigation, damage or liability of any nature whatsoever, that may arise out of or in connection with Operator's breach of this Agreement or the use of the Northeast Animal Care Center by Operator, its agents, employees, customers, or any other person using or attending any of Operator's projects or programs on the Premises. Such defense and indemnification shall include any suits and causes of action, claims, losses,

demands and expenses, including, but not limited to reasonable and necessary attorney's fees and cost of litigation, damage or liability arising out of any violation of the Injunction by Operator. Said indemnification obligation shall not apply to any effort by any party to modify the Injunction, to amend claims in the current Injunction litigation insofar as these claims allege that entering into this Agreement by the City is or should be considered a violation of the Injunction or to new lawsuits relating to TNR unless resulting from Operator's actions, nor shall it apply to the City's future CEQA determinations in any way related to TNR. Subject to the City's approval, which shall not be unreasonably withheld, Operator shall have the right to select counsel of its choice to provide the City's defense under this indemnification and defense provision.

**Section 9.2. Indemnification by the City.** Except for the active negligence or willful misconduct of Operator, the City shall defend, indemnify and hold harmless the Operator and each of its Representatives from and against (i) any Losses actually suffered or incurred by the Operator or any such Representative, arising from any claims or lawsuits based upon, arising out of, occasioned by or attributable to any failure by the City or its Representatives to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement or arising out of any breach of the City's representations and warranties; or (ii) all suits and causes of action, claims, losses, demands and expenses, including, but not limited to reasonable and necessary attorney's fees and cost of litigation, damage or liability of any nature whatsoever, that may arise out of or in connection with City's operations in the Care Center as permitted by this Agreement.

**Section 9.3. Agency for Representatives.** Each of the City and the Operator agrees that it accepts each indemnity in favor of any of its Representatives, as agent and trustee of that Representative and agrees that each of the City and the Operator may enforce an indemnity in favor of its Representatives on behalf of that Representative.

**Section 9.4. Third Party Claims.**

(a) *Notice of Third Party Claim.* If an Indemnified Party receives notice of the commencement or assertion of any Third Party Claim, the Indemnified Party shall give the Indemnifier reasonably prompt notice thereof, but in any event no later than 45 days after receipt of such notice of such Third Party Claim. Such notice to the Indemnifier shall describe the Third Party Claim in reasonable detail (and include a copy of any complaint or related documents) and shall indicate, if reasonably practicable, the estimated amount of the Loss that has been or may be sustained by the Indemnified Party.

(b) *Defense of Third Party Claim.* The Indemnifier may participate in or assume the defense of any Third Party Claim by giving notice to that effect to the Indemnified Party not later than 30 days after receiving notice of that Third Party Claim (the "Notice Period"). The Indemnifier's right to do so shall be subject to the rights of any insurer or other Party who has potential liability in respect of that Third Party Claim. The Indemnifier agrees to pay all of its own expenses of participating in or assuming each defense. The Indemnified Party shall co-operate in good faith in the defense of each Third Party Claim, even if the defense has been assumed by the Indemnifier and may participate in such defense assisted by counsel of its own choice at its own expense. If the Indemnified Party has not received notice within the



Notice Period that the Indemnifier has elected to assume the defense of such Third Party Claim, the Indemnified Party may assume such defense, assisted by counsel of its own choosing and the Indemnifier shall be liable for all reasonable costs and expenses paid or incurred in connection therewith and any Loss suffered or incurred by the Indemnified Party with respect to such Third Party Claim.

(c) *Assistance for Third Party Claims.* The Indemnifier and the Indemnified Party will use all reasonable efforts to make available to the Party which is undertaking and controlling the defense of any Third Party Claim (the “Defending Party”), (i) those employees whose assistance, testimony and presence is necessary to assist the Defending Party in evaluating and in defending any Third Party Claim, and (ii) all documents, records and other materials in the possession of such Party reasonably required by the Defending Party for its use in defending any Third Party Claim, and shall otherwise co-operate with the Defending Party. The Indemnifier shall be responsible for all reasonable expenses associated with making such documents, records and materials available and for all expenses of any employees made available by the Indemnified Party to the Indemnifier hereunder, which expense shall not exceed the actual cost to the Indemnified Party associated with such employees.

**Section 9.5. Direct Claims.** Any Direct Claim shall be asserted by giving the Indemnifier reasonably prompt notice thereof, but in any event not later than 90 days after the Indemnified Party becomes aware of such Direct Claim. The Indemnifier shall then have a period of 45 days within which to respond in writing to such Direct Claim. If the Indemnifier does not so respond within such 45-day period, the Indemnifier shall be deemed to have rejected such Claim, and in such event the Indemnified Party may submit such Direct Claim to the dispute resolution process set forth in Article 12.

**Section 9.6. Failure to Give Timely Notice.** A failure to give timely notice in accordance with this Article 12 shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, a Party which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise directly and materially damaged as a result of such failure.

**Section 9.7. Reductions and Subrogation.** If the amount of any Loss incurred by an Indemnified Party at any time subsequent to the making of an indemnity payment hereunder (an “Indemnity Payment”) is reduced by any recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other Person, the amount of such reduction (less any costs, expenses (including Taxes) or premiums incurred in connection therewith), together with interest thereon from the date of payment thereof at the Bank Rate, shall promptly be repaid by the Indemnified Party to the Indemnifier. Upon making a full Indemnity Payment, the Indemnifier shall, to the extent of such Indemnity Payment, be subrogated to all rights of the Indemnified Party against any third party in respect of the Loss to which the Indemnity Payment relates. Until the Indemnified Party recovers full payment of its Loss, any and all claims of the Indemnifier against any such third party on account of such Indemnity Payment shall be postponed and subordinated in right of payment to the Indemnified Party’s rights against such third party.

**Section 9.8. Payment and Interest.** All amounts to be paid by an Indemnifier hereunder shall bear interest at a rate per annum equal to the Bank Rate, calculated annually and payable monthly, both before and after judgment, from the date that the Indemnified Party disbursed funds, suffered damages or losses or incurred a loss, liability or expense in respect of a Loss for which the Indemnifier is liable to make payment pursuant to this Article 9, to the date of payment by the Indemnifier to the Indemnified Party.

**Section 9.9. Other Matters.** To the extent permissible by applicable law, the Operator waives any limits to the amount of its obligations to defend, indemnify, hold harmless or contribute to any sums due under any Losses, including any claim by any employee of the Operator, that may be subject to the provisions of Section 3700 *et seq.* of the California Labor Code or any other related law or judicial decision.

**Section 9.10. Offset Rights; Limitations on Certain Damages.**

(a) Any other provision herein notwithstanding, each Party's obligations under this Agreement are subject to, and each Party shall have the benefit of, all defenses, counterclaims, rights of offset or recoupment or other claims and rights, including the right to deduct payments due to the other Party hereunder (collectively, "Offsets") which such Party may have at any time against such other Party (or any of their respective successors and assigns) or any transferee or assignee of any such other Party's rights as against such Party or any part thereof or interest therein, whether the claim or right of such Party relied upon for such purpose is matured or unmatured, contingent or otherwise, and no transfer or assignment of this Agreement or any other obligation of such other Party, or of any rights in respect thereof, pursuant to any plan of reorganization or liquidation or otherwise shall affect or impair the availability to each Party of the Offsets.

(b) In no event shall any Party be liable to the other Party under this Agreement for consequential, indirect, exemplary or punitive damages (except for claims for fraud or for intentional misrepresentation or intentional breach).

**Section 9.11. Survival.** This Article 9 shall remain in full force and effect in all circumstances and shall not be terminated by any breach (fundamental, negligent or otherwise) by any Party of its representations, warranties or covenants hereunder or by any termination or rescission of this Agreement by any Party.

## **ARTICLE 10 INSURANCE**

**Section 10.1. Insurance Coverage Required.** The Operator shall provide and maintain at the Operator's own expense, or cause to be maintained, during the Term and during any time period following expiration if the Operator is required to return and perform any additional work, the insurance coverage and requirements specified below, insuring the Northeast Animal Care Center and all Northeast Animal Care Center Operations (the "Required Coverage").



**Section 10.2. General Liability Insurance.** Operator shall provide and maintain general liability insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence, Five Million Dollars (\$5,000,000) aggregate for bodily injury and property damage.

**Section 10.3. Automobile Liability Insurance.** When any motor vehicles (owned, non-owned or hired) are used in connection with this Agreement, Operator shall provide automobile liability insurance in an amount not less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.

**Section 10.4. Builder's Risk Insurance.** When Operator undertakes any construction, maintenance or repairs to the Northeast Animal Care Center, Operator shall provide and maintain all risk builder's risk insurance covering loss, damage or destruction of property, including materials in transit and stored on and off site, in an amount equal to the value of construction and materials on hand.

**Section 10.5. Workers' Compensation and Employer's Liability Insurance.** By signing this Agreement, Operator hereby certifies that it is aware of the provisions of Sections 3700, *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during the Term of this Agreement. A Waiver of Subrogation in favor of City is required. Operator shall provide and maintain workers' compensation covering all employees who agree to provide a service under this Agreement and employer's liability insurance in an amount not less than \$1,000,000 per accident for bodily injury or disease.

**Section 10.6. Additional Insureds /Additional Interest/Loss Payee.** Operator agrees that City, its boards, officers, agents and employees shall be included as:

- a) Additional insureds in all required general liability and automobile liability insurance.
- b) Named insured in all required builder's risk insurance.
- c) Loss payee as its interests may appear in all required property insurance.

**Section 10.7. Operator's Property.** City will not insure Operator's equipment, stored goods, other personal property, fixtures, or Operator improvements, nor such personal property owned by Operator's sub-Operators or assignees, if any, or invitees. City shall not be required to repair any injury or damage to any personal property or trade fixtures installed in the Northeast Animal Care Center by Operator caused by fire or other casualty, or to replace any such personal property or trade fixtures. Operator may, at Operator's sole option and expense, obtain physical damage insurance covering Operator's equipment, stored goods, personal property, fixtures or Operator improvements or obtain business interruption insurance.

**Section 10.8. Notice of Change in Insurance.** All insurance policies required under this Agreement shall expressly provide that such insurance shall not be canceled or materially reduced in coverage or limits except after thirty (30) days' (ten (10) days for non-payment of

premium) written notice has been given to City Administrative Officer, Risk Management, City Hall East, Room 1240, 200 North Main Street, Los Angeles, California 90012.

**Section 10.9. Default.** If insurance is canceled, lapsed, or reduced below minimums required in this Article 10, City may consider this Agreement to be in default and may terminate it. Termination shall occur at the expiration of a three (3) day notice given in accordance with the provisions of the Code of Civil Procedure Section 1162. At the termination of three (3) days or sooner, the Operator shall vacate the Northeast Animal Care Center and the Operator shall have no right to possess or control the Northeast Animal Care Center or the operations conducted therein. If the Operator does not vacate, City may utilize any and all court proceedings to obtain a right to possession.

**Section 10.10. Adjustment of Insurance Levels.** The City reserves the right at any time during the Term or any extension or holdover of this Agreement, applying generally accepted risk management principles, to change the amounts and types of insurance required hereunder upon giving Operator ninety (90) days prior written notice in order to insure that the Operator is maintaining customary and reasonable insurance amounts and types during the Term of the Agreement. In the event the City determines that additional insurance or amounts are required, the City will allow the Operator to adjust the Maximum Fee Schedule (Schedule X) proportionately.

**Section 10.11. Waiver of Subrogation.** With respect to property damage, each Party agrees to waive its rights of subrogation for any claim applicable to the California Standard Fire Policy with Extended Coverage and Vandalism and Malicious Mischief endorsements.

**Section 10.12. Admitted Carrier/Licensed California Broker.** All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the City.

**Section 10.13. Contribution Not Required.** Operator's insurance shall be primary and will not require contribution or shall be endorsed to effect these provisions.

**Section 10.14. Separation of Insureds.** Except with respect to the insurance company's limits of liability, each liability insurance policy shall apply separately to each insured against whom a claim or suit is brought. The inclusion of any person or organization as an insured shall not affect any right such person or organization would have as a claimant if not so included.

**Section 10.15. Insurance Approval.** All insurance required hereunder shall conform to the City requirements established by Charter, ordinance or policy. Evidence of Insurance shall be approved by the Office of the Administrative Officer, Risk Management prior to tenancy under this Agreement in accordance with the Los Angeles Administrative Code.

**Section 10.16. Evidence of Insurance.** Electronic submission via Track4LA<sup>®</sup>, the City's online insurance compliance system (<http://track4la.lacity.org>), is the preferred method for submitting evidence of insurance. Track4LA<sup>®</sup> can be used by insurance brokers and agents to submit Operator insurance certificates directly to the City using the ACORD 25 Certificate of Liability Insurance in electronic format. Insurance Industry Certificates of Insurance other than the ACORD 25 may also be accepted. However all Certificates must provide a thirty (30) days'

notice provision (ten (10) days for non-payment of premium) and an Additional Insured Endorsement naming the City an additional insured completed by Operator's insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Insurance Certificate must state that the City is an automatic or blanket additional insured. An endorsement naming the City as an insured is required on all builder's risk policies. An endorsement naming the City as Loss Payee as its Interest may appear is required on all property coverages. Alternatively, the Operator may submit a copy of the full insurance policy containing language which complies with the requirements of this Article 10. Additional Insured Endorsements do not apply to the following: Indication of compliance with statute, such as Workers' Compensation Law.

## **ARTICLE 11 DISPUTE RESOLUTION**

**Section 11.1. Scope.** Any dispute arising out of, relating to, or in connection with this Agreement shall be resolved as set forth in this Article 11.

**Section 11.2. Informal Dispute Resolution Procedures.** The Parties shall attempt in good faith to resolve such dispute within 15 days following receipt by the other Party of notice of such dispute. If the Parties are unable to resolve the dispute within such 15-day period, and upon notice by either Party to the other, the dispute shall be referred to the Designated Senior Person of each Party. The Designated Senior Persons shall negotiate in good faith to resolve the dispute, conferring as often as they deem reasonably necessary. Statements made by representatives of the Parties during the dispute resolution procedures set forth in this Section 11.2 and documents specifically prepared for such dispute resolution procedures shall be considered part of settlement negotiations and shall not be admissible as evidence in any arbitration or other litigation proceeding between or involving the Parties without the mutual written consent of the Parties.

**Section 11.3. Non-Binding Mediation.** Non-binding mediation of a dispute under this Agreement may not be commenced until the earlier of: (i) such time as both of the Designated Senior Persons, after following the procedures set forth in Section 11.2, conclude in good faith that amicable resolution through continued negotiation of the matter does not appear likely; or (ii) 15 days after the notice referring the dispute to the Designated Senior Persons, pursuant to Section 11.2. If, after such time period, the dispute remains unresolved, the Parties shall attempt to resolve the dispute through non-binding mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Procedures before resorting to judicial reference of the dispute for a binding decision, as provided by Section 11.4.

**Section 11.4. Judicial Reference of Disputes.** All controversy arising out of this Agreement not resolved in accordance with Section 11.2 or 11.3 shall be heard by a referee pursuant to the provisions of the California Code of Civil Procedure Section 638, *et seq.* The parties shall agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon. If the parties are unable to agree upon a referee, either party may seek to have one appointed, pursuant to Sections 638 *et seq.* of the California Code of Civil Procedure. The cost of such proceeding shall initially be borne equally by the parties.

However, the prevailing party shall be entitled, in addition to all other costs, to the costs of the referee as an item of recoverable costs.

**Section 11.5. Provisional Remedies.** No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and that is not otherwise available under this Agreement, including temporary and preliminary injunctive relief and restraining orders and the appointment of a receiver or receiver and manager in connection with the collection and retention of Other Operator Revenues.

## **ARTICLE 12 DEFAULTS**

### **Section 12.1. Default by the Operator.**

(a) *Events of Default.* The occurrence of any one or more of the following events during the Term shall constitute a "Operator Default" under this Agreement:

(i) if the Operator knowingly engages in TNR activities prohibited by this Agreement, as part of its operations in the Northeast Animal Care Center only and not in its other operations, and such activities are determined by a court of law to be a violation of the Injunction; or

(ii) if the Operator fails to comply with, perform or observe any material obligation, covenant, agreement, term or condition in this Agreement, and such failure continues and is not remedied for a period of thirty (30) calendar Days following notice thereof (giving particulars of the failure in reasonable detail) from the City to the Operator or for such longer period as may be reasonably necessary to cure such failure, provided, in the latter case, that the Operator has demonstrated to the satisfaction of the City, acting reasonably, that (A) it is proceeding, and will proceed, with all due diligence to cure or cause to be cured such failure, (B) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to the City, acting reasonably and (C) such failure is in fact cured within such period of time; or

(iii) if the Operator (A) admits, in writing, that it is unable to pay its debts as such become due, (B) makes an assignment for the benefit of creditors, (C) files a voluntary petition under Title 11 of the U.S. Code, or if such petition is filed against it and an order for relief is entered, or if the Operator files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future U.S. bankruptcy code or any other present or future applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Operator or of all or any substantial part of its properties or of the Northeast Animal Care Center or any interest therein, or (D) takes any corporate action in furtherance of any action described in this Section 12.1(a);

(b) *Remedies of the City Upon Operator Default.* Upon the occurrence of an Operator Default, the City may, by notice to the Operator in accordance with the terms hereof, declare the



**ARTICLE 13**  
**MISCELLANEOUS**

**Section 13.1. Notice.** All notices and demands which may or are to be required or permitted to be given by either Party to the other hereunder shall be in writing. All notices and demands shall be personally delivered (including by means of professional messenger service), sent by United States registered or certified mail, postage prepaid, return receipt requested, or transmitted by telecopier (e.g., Fax), in which case the receiving Party shall immediately confirm receipt of such notice. All notices are effective upon receipt. For the purposes of such notices, the addresses for the parties are set forth in Section 13.2 below. Either Party may from time to time designate another Person or place in a notice.

**Section 13.2. Notices - Where Sent.** All notices given under this Agreement which are mailed or telecopied shall be addressed to the respective parties as follows:

To City:

City of Los Angeles  
Brenda Barnette  
221 N. Figueroa St, 5<sup>th</sup> Floor  
Los Angeles, California 90012  
Telecopier: (213) 482-9511

*with a copy of any notice to:*

Office of the City Attorney  
-Real Property Division  
City Hall East, Room 701  
200 North Main Street  
Los Angeles, California 90012  
Telecopier: (213) 978-8090

To Operator:

Best Friends Animal Society  
Attn:

Los Angeles, CA \_\_\_\_\_

*with a copy to:*

Fabian & Clendenin  
Attn: Joan M. Andrews  
215 S, State Street, Suite 1200  
Salt Lake City, Utah 84111-2323

Best Friends Animal Society  
Attn: Gregory Castle, CEO  
5001 Angel Canyon Road  
Kanab, UT 84741

**Section 13.3. Entire Agreement.** This Agreement, including all schedules and exhibits hereto, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree that (i) each has substantial business experience and is fully acquainted with the provisions of this Agreement, (ii) the provisions and language of this Agreement have been fully negotiated and (iii) no provision of this Agreement shall be construed in favor of any Party or against any



Operator to be in default and may, subject to the provisions of Article 11, do any or all of the following as the City, in its discretion, shall determine:

(i) if the Operator Default is by reason of the failure to pay any monies to third parties, the City may (without obligation to do so) make payment on behalf of the Operator of such monies, and any amount so paid by the City shall be payable by the Operator to the City within 10 Business Days after demand therefor;

(ii) the City may seek specific performance, injunction or other equitable remedies, it being acknowledged that damages are an inadequate remedy for a Operator Default;

(iii) the City may seek to recover its Losses arising from such Operator Default and any amounts due and payable under this Agreement and, in connection therewith, exercise any recourse available to any Person who is owed damages or a debt;

(iv) with respect to those Operator Defaults that entitle the City to terminate this Agreement pursuant to Section 12.1(b)(i) or (ii), the City may terminate the Operator's right of possession of the Northeast Animal Care Center, and in such event, the City or the City's agents and servants may immediately or at any time thereafter re-enter the Northeast Animal Care Center and remove all Persons and all or any property therefrom, by any available action under law or proceeding at law or in equity, and with or without terminating this Agreement, and repossess and enjoy the Northeast Animal Care Center; *provided, however*, that no reentry by the City shall be construed as an election on its part to terminate this Agreement unless a notice of such intention is given to the Operator; *provided further* that any re-entry or termination of this Agreement made in accordance with this Agreement as against the Operator shall be valid and effective against the Operator;

(v) the City may, subject to applicable Law, seize and hold any of the Operator's goods situated on the Northeast Animal Care Center and the Operator waives any statutory protections and exemptions in connection therewith; and

(vi) the City may exercise any of its other rights and remedies provided for hereunder or at law or equity.

[Intentionally Left Blank]

Party by reason of such provision of this Agreement having been drafted on behalf of one Party rather than the other.

**Section 13.4. Agent for Service of Notice and Process.** If neither California legal entities nor licensed to do business in the State of California, the Operator shall designate an agent located within the County of Los Angeles, State of California, for service of legal process.

**Section 13.5. Amendment.** This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties.

**Section 13.6. Waiver of Rights.** Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

**Section 13.7. Severability.** Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable Law. The invalidity of any one or more phrases, sentences, clauses or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof. If any provision of this Agreement or the application thereof to any Person or circumstances is held or deemed to be or determined to be invalid, inoperative or unenforceable in any particular case in any particular jurisdiction or jurisdictions because it conflicts with any other provision or provisions hereof or of any applicable Law, or public policy, or for any other reason, (i) such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever, and (ii) the Parties shall negotiate in good faith to amend this Agreement to implement the provisions set forth herein.

**Section 13.8. Reservation of Mineral Rights.** City hereby reserves all right, title, and interest in any and all gas, oil, minerals, and water beneath the Northeast Animal Care Center.

**Section 13.9. No Partnership or Third Party Beneficiaries.** Except as expressly provided herein to the contrary, nothing contained in this Agreement shall constitute or be deemed to create a partnership, joint venture or principal and agent relationship between the City and the Operator, nor shall any term or provision hereof be construed in any way to grant, convey or create any rights or interests to any Person not a Party to this Agreement.

**Section 13.10. Governing Law.** This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws of the State of California.

**Section 13.11. Submission to Jurisdiction.** Subject to Article 11, any action or proceeding against the Operator or the City relating in any way to this Agreement may be brought and enforced in the Federal Court of the Central District of California or the Superior Court of the County of Los Angeles, State of California and each of the Operator and the City hereby irrevocably submits to the jurisdiction of said courts with regard to any such action or

proceeding, and irrevocably waives, to the fullest extent permitted by applicable Law, any objection it may have now or hereafter have to the laying of venue of any such action or proceeding in said court and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Service of process on the City may be made only by personal delivery on the City Clerk or Deputy City Clerk of the City with courtesy copies sent in accordance with Sections 13.1 and 13.2. Service of process on the Operator may be made either by registered or certified mail addressed as provided for in Section 13.1 or by delivery to the Operator's registered agent for service of process in the State of California. If the Operator is presented with a request for Documents by any administrative agency or with a *subpoena duces tecum* regarding any Documents which may be in its possession by reason of this Agreement, the Operator shall give prompt notice to the City Attorney of the City. The City may contest such process by any means available to it before such Documents are submitted to a court or other third party; *provided, however*, that the Operator shall not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency or required by Law, unless the *subpoena* or request is quashed or the time to produce is otherwise extended.

**Section 13.12. Further Acts.** The Parties shall do or cause to be done all such further acts and things as may be reasonably necessary or desirable to give full effect to this Agreement. Without limiting the foregoing, each Party will, at any time and from time to time, execute and deliver or cause to be executed and delivered such further instruments and take such further actions as may be reasonably requested by the other Party in order to cure any defect in the execution and/or delivery of this Agreement.

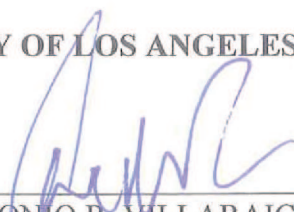
**Section 13.13. Costs.** Except as otherwise provided in this Agreement, each Party shall be responsible for its own costs and expenses incurred in connection with performing and observing its obligations and covenants under this Agreement.

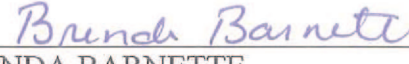
**Section 13.14. Counterparts; Facsimile Execution.** This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement shall be effective when it has been executed by each Party and delivered to all Parties. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Party by facsimile transmission. Such Party shall be deemed to have executed and delivered this Agreement on the date it sent such facsimile transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

[Intentionally Left Blank]

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed on its behalf by its Mayor pursuant to due authorization of the City Council and the Operator has caused this Agreement to be duly executed pursuant to due authorization. If the space provided in Section 1.1 of this Agreement is blank, such date shall be entered in such space, although such date shall be deemed to be the date of this Agreement in any case.

**CITY OF LOS ANGELES**, a municipal corporation,

By:   
ANTONIO R. VILLARAIGOSA  
Mayor

By:   
BRENDA BARNETTE  
General Manger, Animal Services

DATE: JAN 10 2012

DATE: 1-3-2012

**BEST FRIENDS ANIMAL SOCIETY**, a tax-exempt non-profit animal welfare,

By:   
GREGORY CASTLE  
Chief Executive Officer

DATE: 12/30/11

**APPROVED AS TO FORM:**

**CARMEN A. TRUTANICH**, City Attorney

**ATTEST:**

**JUNE LAGMAY**, City Clerk



By:   
DOV S. LESEL, Assistant City Attorney

By:   
Deputy

DATE: 1/3/12

DATE: 1/11/12

C-120026

ATTACHMENT A



SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/04/09

DEPT. SE H

HONORABLE THOMAS I. MC KNEW, JR.

JUDGE

T. FRAIA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING

C. LOKUAN

NONE

Deputy Sheriff Reporter

1:30 pm

BS115483

In RE the Matter of:  
THE URBAN WILDLANDS GROUP,  
ET AL.

VS

CITY OF LOS ANGELES, ET AL.  
"CEQA"

Counsel for  
Petitioner NO APPEARANCES

NATURE OF PROCEEDINGS:

RULING ON PETITION FOR WRIT OF MANDAMUS HEARD 11/20/09

The Court has reviewed the pleadings filed by  
counsel and the oral argument made by counsel  
and rules as follows:

Petitioner THE URBAN WILDLANDS GROUP, et al.'s  
petition for writ of mandate is GRANTED. CCP sections  
1095, 1094.5; PRC sections 21168, 21168.5.

The CITY OF LOS ANGELES is ENJOINED from implementing  
a Trap Neuter and Release (TNR) Program for Feral Cats  
unless and until an environmental review in compliance  
with the California Environmental Quality Act is  
completed. The City is PROHIBITED from encouraging  
third parties to carry out such a program by providing  
incentives for, or otherwise facilitating, the  
capture, sterilization and release of feral cats by:  
providing traps free of charge, providing any  
discounts for spay and neuter surgeries for cats,  
providing information about such programs sponsored by  
other entities on its website or providing information  
about such programs sponsored by other entities on  
its website or providing cyberlinks thereto, by  
developing or distributing literature on the TNR  
Program or by conducting public outreach on TNR using  
press releases, fliers or other media except in  
conjunction with the CEQA process. That portion of

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/04/09

DEPT. SE H

HONORABLE THOMAS I. MC KNEW, JR.

JUDGE

T. FRALA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING

C. LOKUAN

NONE

Deputy Sheriff Reporter

1:39 pm

BS115483

In RE the Matter of:  
THE URBAN WILDLANDS GROUP,  
ET AL.

VS

CITY OF LOS ANGELES, ET AL.  
"CEQA"

Counsel for

Petitioner NO APPEARANCES

NATURE OF PROCEEDINGS:

Municipal Code Section 53.69(b) which authorizes LAAS to waive cat trap rental fees or security deposits for TNR groups is unenforceable. Petitioner is directed to submit a proposed judgment, writ, and an appropriate and enforceable injunctive order.

Petitioner THE URBAN WILDLANDS GROUP, et al.'s request for judicial notice is GRANTED in part. To the extent that the some of the requests are not judicial noticeable (declarations, e-mails, etc.) the court construes petitioners request as a motion to augment the record and as such GRANTS the motion. The Court considered all exhibits except "J". Extra record evidence may be necessary "when the courts are asked to review ministerial or informal administrative actions [] because there is often little or no administrative record in such cases. SM Sands Corp. v. City and County of San Francisco (2008) 167 Cal. App. 4th 185, 194 (citing Western States Petroleum Ass'n v. Superior Court (1995) 9 Cal. 4th 550, 576.

Respondents CITY OF LOS ANGELES (LA), BOARD OF ANIMAL SERVICES COMMISSIONERS (BOARD), and DEPARTMENT OF ANIMAL SERVICES (LAAS)'s request for judicial notice is GRANTED.

Respondents' request that the record be entered into evidence is DENIED. The record was received and lodge. PRC section 21167.6(b)(1).

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/04/09

DEPT. SE H

HONORABLE THOMAS I. MC KNEW, JR.

JUDGE

T. FRALA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING

C. LOKUAN

NONE

Deputy Sheriff Reporter

1:30 pm

BS115483

In RE the Matter of:  
THE URBAN WILDLANDS GROUP,  
ET AL.

VS

CITY OF LOS ANGELES, ET AL.  
"CEQA"

Counsel for

Petitioner NO APPEARANCES

NATURE OF PROCEEDINGS:

The Court has already ruled on the issue of the statute of limitations. See Minute Order of February 26, 2009. The Court does not find the evidence contradicts the petitioners' allegations of the date of discovery. Despite assurances from officials that "in order for the Department [LAAS] to proceed with establishing a TNR policy, a report outlining the potential effect on the environment must be completed," there is evidence of subsequent and/or ongoing violations. 1818, see infra.

In administrative mandamus actions, the court's review is limited to determination of whether the respondent has proceeded without or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. CCP section 1094.5. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are supported by the evidence. Id.

In all other actions attacking a decision of a public agency on the grounds of noncompliance with CEQA, the court's inquiry shall only extend to whether there was a prejudicial abuse of discretion. PRC section 21168.5. Abuse of discretion is established if the agency has not proceeded in a manner required by law, or if the determination or decision is not supported by substantial evidence. Id. "There are two types of traditional mandamus actions; those challenging

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/04/09

DEPT. SE H

HONORABLE THOMAS I. MC KNEW, JR.

JUDGE

T. FRALA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING

C. LOKUAN

NONE

Deputy Sheriff Reporter

1:30 pm

BS115483

In RE the Matter of:  
THE URBAN WILDLANDS GROUP,  
ET AL.

Counsel for

Petitioner NO APPEARANCES

VS  
CITY OF LOS ANGELES, ET AL.  
"CEQA"

NATURE OF PROCEEDINGS:

ministerial or informal administrative actions and those challenging quasi-legislative administrative decisions."

This case involves a combination or hybrid of the types of actions described above. The "record" in this case is unclear since no "official action" was taken. After much debate, an "administrative record" was produced even though the agencies insisted that no official determination or decision had been made. The Court ordered production of a broad category of documents to include "everything in the records pertaining to the City's program, if there is one, or former program, if there was one or its program to urge third parties to conduct trapping and bringing in for neutering cats." Request for judicial notice, Exhibit E at 17. "The appropriate degree of judicial scrutiny in any particular case is perhaps not susceptible of precise formulation, but lies somewhere along a continuum with non-reviewability at one end and independent judgment at the other. Quasi-legislative administrative decisions are properly placed at that point of the continuum at which judicial review is more deferential; ministerial and informal actions do not merit such deference, and therefore lie toward the opposite end of the continuum." *Western States Petroleum Ass'n v. Superior Court* (1995) 9 Cal. 4th 559, 575-576 (citations omitted).

A public agency must prepare an EIR whenever

Page 4 of 7 DEPT. SE H

MINUTES ENTERED  
12/04/09  
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/04/09

DEPT. SE H

HONORABLE THOMAS I. MC KNEW, JR.

JUDGE

T. FRALA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING

C. LOKUAN

NONE

Deputy Sheriff Reporter

1:30 pm

BS115483

Counsel for

In RE the Matter of:  
THE URBAN WILDLANDS GROUP,  
ET AL.

Petitioner NO APPEARANCES

VS

CITY OF LOS ANGELES, ET AL.  
"CEQA"

NATURE OF PROCEEDINGS:

substantial evidence supports a "fair argument" that a proposed project "may have a significant effect on the environment." Pub. Res. Code sections 21100, 21151; 14 CCR sections 15002(f)(1), (f)(2); No Oil, Inc. v. City of Los Angeles (1974) 13 Cal. 3d 68, 75. The parties agree that environmental review is necessary in order to implement a Trap Neuter and Release Program. The question before the Court is whether the respondents have abused their discretion by not proceeding in a manner required by law by "secretly and unofficially" implementing the program before the environmental review was completed.

A project is subject to CEQA if it may cause either a direct physical change of the environment, or a reasonably foreseeable indirect physical change in the environment. Santa Monica Chamber of Commerce v. City of Santa Monica (2002) 101 Cal. App.4th 786, 789, n.2. (discussing parking restrictions). It is a reasonable inference that the removal of restrictions is also a project if there is a potential for adverse impact. Here, the evidence in the record establishes that respondents have removed restrictions, facilitated the impetation of TNR and even provided incentives to promote a policy of TNR without the benefit of environmental review.

While respondents claim that the program was adopted "in concept only," the record establishes that the respondents have done much more than that. Respondents also deny that they are distributing or have ever



SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/04/09

DEPT. SE H

HONORABLE THOMAS I. MC KNEW, JR.

JUDGE

T. FRALA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING

C. LOKUAN

NONE

Deputy Sheriff Reporter

1:30 pm

BS115483

In RE the Matter of:  
THE URBAN WILDLANDS GROUP,  
ET AL.

VS

CITY OF LOS ANGELES, ET AL.  
"CEQA"

Counsel for

Petitioner NO APPEARANCES

NATURE OF PROCEEDINGS:

issued vouchers.

Petitioners have produce evidence of respondents' involvement with the FELIX program and other organizations advocating the maintenance of feral cat populations. Exhibit C, 2523, 2528, 2527, 2529, 2624, 2822, 2627. Petitioners have presented evidence of a LAAS voucher system providing discounts to TNR organizations. 1694, 2532-3, 2612, Exhibit E.

A Municipal Ordinance provides for a discretionary waiver of certain fees to TNR groups. 1669-70. Delegating that discretion, without a Program EIR review, would, in effect, define each decision to waive fees a "project" within the meaning of CEQA. PRC section 21065 (an activity supported through subsidies or other forms of assistance). While the ordinance itself cannot be challenged, because the time in which to do so has passed, the discretion it purports to delegate cannot be exercised without violating the law. In that respect, the ordinance is unenforceable.

This is not a case where a single employee has acted inconsistently with an agency's instructions. Petitioners have provided evidence that, despite official denial, the implementation of the program is pervasive, albeit "informal and unspoken." Exhibit A.

Therefore, the Court grants the petitioners' writ

MINUTES ENTERED  
12/04/09  
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/04/09

HONORABLE THOMAS I. MC KNEW, JR.

HONORABLE

C. LOKUAN

JUDGE

JUDGE PRO TEM

NONE

DEPT. SE H

T. PRALA DEPUTY CLERK

ELECTRONIC RECORDING

Deputy Sheriff Reporter

1:30 pm

BS115483

In RE the Matter of:  
THE URBAN WILDLANDS GROUP,  
ET AL.

VS

CITY OF LOS ANGELES, ET AL.  
"CEQA"

Counsel for  
Petitioner NO APPEARANCES

NATURE OF PROCEEDINGS:

of mandate, declares that CITY has been implementing  
a TNR program without CEQA compliance and grants the  
petitioners request of injunctive relief.

Evidentiary Objections  
Exhibit J SUSTAINED

All other objections are OVERRULED.

A copy of this minute order is faxed this date to:

BABAK NAFIGY (805) 593-0946

MARY J. DECKER (213) 978-8090

1 CARMEN A. TRUTANICH, City Attorney (SBN: 86629X)  
2 ANDREW J. NOCAS, Deputy City Attorney (SBN: 36090)  
3 MARY J. DECKER, Deputy City Attorney (SBN: 148255)  
4 200 N. Main St., Room 701  
5 Los Angeles, California 90012-4131  
6 Telephone: (213) 978-8182  
7 Facsimile: (213) 978-8090  
8 E-Mail: [mary.decker@lacity.org](mailto:mary.decker@lacity.org)

Attorneys for Respondent and Defendant

9 CITY OF LOS ANGELES, CITY OF LOS ANGELES  
10 BOARD OF ANIMAL SERVICES COMMISSIONERS,  
11 AND CITY OF LOS ANGELES DEPARTMENT OF  
12 ANIMAL SERVICES

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES - SOUTH EAST DISTRICT

13 THE URBAN WILDLANDS GROUP, ENDANGERED  
14 HABITATS LEAGUE, LOS ANGELES AUDUBON  
15 SOCIETY, PALOS VERDES/SOUTH BAY  
16 AUDUBON SOCIETY, SANTA MONICA BAY  
17 AUDUBON SOCIETY, AND AMERICAN BIRD  
18 CONSERVANCY,

Plaintiffs/Petitioners,

vs.

19 CITY OF LOS ANGELES, CITY OF LOS ANGELES  
20 BOARD OF ANIMAL SERVICES COMMISSIONERS,  
21 CITY OF LOS ANGELES DEPARTMENT OF  
22 ANIMAL SERVICES, AND DOES 1-50, inclusive,

Defendants /Respondents.

**FILED**  
LOS ANGELES SUPERIOR COURT

MAR 10 2010

JOHN A. CLARKE, CLERK

BY *[Signature]* DEPUTY

Case No. BS 115483

Judge: Hon. Thomas I. McKnew, Jr.  
Dept.: SE-H

**[REDACTED] STIPULATED ORDER  
MODIFYING INJUNCTION**

[PROPOSED] STIPULATED ORDER MODIFYING INJUNCTION

Mar 11 2010 8:51AM HP LASERJET FAX

1 The parties to this action, by and through their respective counsel, hereby stipulate to the  
2 following:

3 1. The parties to this action agree that modifications would be beneficial regarding the terms of  
4 the injunction included in the Final Judgment and Permanent Injunction entered in this case on  
5 January 5, 2010.  
6

7 2. The purpose of the modifications set forth here are to allow the Department of Animal  
8 Services ("Department") to operate consistent with the intent of the judgment in the case, while still  
9 having discretion and using its best judgment to carry out its duties and responsibilities.  
10

11 3. The parties agree that the modifications set forth here can be modified in the event that the  
12 discretion of the Department to carry out its duties and responsibilities is unduly hampered by the  
13 injunction, or that the modifications result in unanticipated material breach of the intent of the  
14 judgment and the injunction entered on January 5, 2010.

15 4. The parties stipulate that sections 4.a.ii, 4.a.iii, 4.a.v., and 4.e, of the Final Judgment and  
16 Permanent Injunction entered on January 5, 2010, be modified as set forth below:  
17

18  
19 "4. Defendants City of Los Angeles, et al, are specifically PROHIBITED from  
20 undertaking the following actions:

21 a. Promoting TNR for feral cats and encouraging or assisting third parties to  
22 carry out a TNR program by doing any of the following:  
23

24 \* \* \*

25 ii. Provide discounts or discount vouchers for spay or neuter surgeries for  
26 feral cats. The City's Animal Care Centers (shelters), may, however,  
27 continue to disseminate up to three discount vouchers per household or  
28

1  
[PROPOSED] STIPULATED ORDER MODIFYING INJUNCTION

1 property address for the spay or neuter of cats. The City's Animal Care  
2 Centers may disseminate additional discount vouchers per household or  
3 property address if mitigating circumstances are demonstrated to the  
4 satisfaction of the Department of Animal Services, for example, the  
5 spay/neuter of a litter of kittens or the death of one of the cats.  
6

- 7 iii. Release feral cats from shelters to TNR groups or individuals, unless the  
8 TNR groups and individuals who engage in TNR activities agree in writing  
9 that the feral cat redeemed from the City's animal shelter for adoption will  
10 not be returned or released into cat colonies, or onto public property, or  
11 onto private property not owned by the adopting TNR group or individual,  
12 nor adopted out to persons who will place the adopted cats in any TNR  
13 program or colony. Consistent with the foregoing, an owner or caretaker  
14 of a feral cat may reclaim the cat within the first three days of the required  
15 holding period at a City shelter, as set forth in Food and Agricultural Code  
16 Section 31752.5. The provisions for holding and releasing stray cats as set  
17 forth in Food and Agricultural Section 31752 are unaffected by this  
18 provision of the injunction.  
19  
20

21 \* \* \*

- 22 v. Develop or distribute literature on the TNR program or conduct public  
23 outreach on TNR using press releases, fliers, or other media except in  
24 conjunction with the proposed CEQA process. "Literature on the TNR  
25 program" means material distributed to the public that specifically  
26 focuses on TNR programs such as public outreach by means of fliers that  
27 invite persons to engage in TNR or material inviting the public to attend  
28



1 TNR seminars, etc. "Literature on the TNR program" does not mean pet  
2 publications that include articles or writings on a wide range of pet topics  
3 even if the publication includes advertisements or articles on TNR.  
4

5 \* \* \*

6 e. Knowingly referring complaints about feral cats to TNR groups or individuals  
7 who engage in TNR."

8 5. The parties stipulate that section 4.a.iv. of the Final Judgment and Permanent Injunction  
9 entered on January 5, 2010, be deleted in its entirety.  
10

11 DATED: March 9, 2010

CARMEN A. TRUTANICH, City Attorney  
ANDREW J. NOCAS, Deputy City Attorney  
MARY J. DECKER, Deputy City Attorney

12 By Mary J. Decker  
13 MARY J. DECKER  
14 Deputy City Attorney  
15

16 Attorneys for Respondent and Defendant  
17 CITY OF LOS ANGELES, CITY OF LOS ANGELES  
18 BOARD OF ANIMAL SERVICES COMMISSIONERS,  
19 AND CITY OF LOS ANGELES DEPARTMENT OF  
20 ANIMAL SERVICES

21 DATED: March \_\_, 2010

22 By \_\_\_\_\_  
23 KATHLEEN J. DAVIS  
24 General Manager  
25 Department of Animal Services  
26 City of Los Angeles  
27  
28

1 TNR seminars, etc. "Literature on the TNR program" does not mean pet  
2 publications that include articles or writings on a wide range of pet topics  
3 even if the publication includes advertisements or articles on TNR.  
4

5 \* \* \*

6 e. Knowingly referring complaints about feral cats to TNR groups or individuals  
7 who engage in "TNR."

8 5. The parties stipulate that section 4.a.iv. of the Final Judgment and Permanent Injunction  
9 entered on January 5, 2010, be deleted in its entirety.  
10

11 DATED: March 10, 2010

CARMEN A. TRUTANICH, City Attorney  
ANDREW J. NOCAS, Deputy City Attorney  
MARY J. DECKER, Deputy City Attorney

14 By

MARY J. DECKER  
Deputy City Attorney

16 Attorneys for Respondent and Defendant  
17 CITY OF LOS ANGELES, CITY OF LOS ANGELES  
18 BOARD OF ANIMAL SERVICES COMMISSIONERS,  
19 AND CITY OF LOS ANGELES DEPARTMENT OF  
20 ANIMAL SERVICES

21 DATED: March 10, 2010

22 By

*Kathleen J. Davis*  
KATHLEEN J. DAVIS  
General Manager  
Department of Animal Services  
City of Los Angeles

1  
2 DATED: March 8, 2010

LAW OFFICES OF BABAK NAFIGY

3  
4 By

*Babak Naficy*  
BABAK NAFIGY

5 Attorney for Plaintiffs and Petitioners

6 THE URBAN WILDLANDS GROUP, ENDANGERED  
7 HABITATS LEAGUE, LOS ANGELES AUDUBON  
8 SOCIETY, PALOS VERDES/SOUTH BAY AUDUBON  
9 SOCIETY, SANTA MONICA BAY AUDUBON SOCIETY,  
10 AND AMERICAN BIRD CONSERVANCY

11 ORDER

12 IT IS SO ORDERED.

13 Dated: 3/10/10

*Thomas I. McKnew, Jr.*  
Hon. Thomas I. McKnew, Jr.  
Judge of the Superior Court

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[PROPOSED] STIPULATED ORDER MODIFYING INJUNCTION

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**PROOF OF SERVICE**

I, the undersigned, say: I am over the age of 18 years and not a party to the within action or proceeding. My business address is 700 City Hall East, 200 North Main Street, Los Angeles, California 90012.

On March 10, 2010 I served the foregoing document described as:

**[PROPOSED] STIPULATED ORDER MODIFYING INJUNCTION**

on all interested parties in this action by placing copies thereof enclosed in a sealed envelope addressed as follows:

Babak Naficy, Esq.  
LAW OFFICES OF BABAK NAFICY  
1504 Marsh St.  
San Luis Obispo, CA 93401  
Facsimile (805) 593-0946  
(Attorneys for Petitioners)  
THE URBAN WILDLANDS GROUP, et al.)

☐ BY MAIL - I deposited such envelope in the mail at Los Angeles, California, with first class postage thereon fully prepaid. I am readily with the business practice for collection and processing of correspondence for mailing. Under that practice, it is deposited with the United States Postal Service on that same day, at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing in affidavit; and /or

☒ BY FACSIMILE TRANSMISSION - I caused the document to be transmitted to the offices of the addressee via facsimile machine at telephone numbers listed in Service List on the date and time specified on the Transmission Report. The document was sent by fax from telephone number (213) 978-8090 and the transmission was reported complete and without error.

☐ BY PERSONAL SERVICE - ( ) I delivered by hand, or ( ) I caused to be delivered via messenger service, such envelope to the offices of the addressee with delivery time prior to 5:00 p.m. on the date specified above.

☐ BY OVERNIGHT COURIER - I deposited such envelope in a regularly maintained overnight courier parcel receptacle prior to the time listed thereon for pick-up. Hand delivery was guaranteed by the next business day.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 10, 2010 at Los Angeles, California.

  
GUADALUPE LOPEZ

## TENTATIVE ORDER

#BS115483

Petitioner THE URBAN WILDLANDS GROUP, et al.'s motion for legal determination is **DENIED without prejudice**. PRC § 21168.9. Petitioners' alternative motion for modification of the injunction is also **DENIED without prejudice**. CCP § 533.

After reading the moving and opposing papers and accompanying affidavits, the court does not find that the City has violated the injunctive order. Nor does it find that there has been a material change in the facts or that the ends of justice would best be served by modifying the injunction at this time. The court does find that the moving petitioners' concerns are based primarily on speculation and that the motion is premature.

No existing violation of the injunction has been shown. Petitioners have not met their burden of showing any imminent irreparable harm as a result of the contract.

Of course, the prohibitions identified in the injunction will apply to BEST FRIENDS ANIMAL SOCIETY in their capacity as shelter operators and as agents of the CITY. Under certain circumstances, not presented here, actions by SOCIETY members or employees while performing their duties in connection with the shelter operations might be considered as violations.

### Evidentiary objections

#### Declaration of Longcore

¶¶ 1,2	OVERRULED
¶¶ 3-9	SUSTAINED
¶ 10	SUSTAINED
¶ 11	SUSTAINED
¶ 13	SUSTAINED
¶ 14	SUSTAINED

#### Declaration of Bernstein

¶ 2	SUSTAINED
¶ 3	SUSTAINED
¶ 5	SUSTAINED
¶ 6	SUSTAINED
¶ 7	OVERRULED
¶ 8	SUSTAINED

#### Declaration of Naficy

¶¶ 4,5,7, and 9	OVERRULED
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ATTACHMENT B

# STANDARD PROVISIONS FOR CITY CONTRACTS

## TABLE OF CONTENTS

PSC-1	<u>CONSTRUCTION OF PROVISIONS AND TITLES HEREIN</u> .....	1
PSC-2	<u>NUMBER OF ORIGINALS</u> .....	1
PSC-3	<u>APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT</u> .....	1
PSC-4	<u>TIME OF EFFECTIVENESS</u> .....	2
PSC-5	<u>INTEGRATED CONTRACT</u> .....	2
PSC-6	<u>AMENDMENT</u> .....	2
PSC-7	<u>EXCUSABLE DELAYS</u> .....	2
PSC-8	<u>BREACH</u> .....	2
PSC-9	<u>WAIVER</u> .....	3
PSC-10	<u>TERMINATION</u> .....	3
PSC-11	<u>INDEPENDENT CONTRACTOR</u> .....	4
PSC-12	<u>CONTRACTOR'S PERSONNEL</u> .....	4
PSC-13	<u>PROHIBITION AGAINST ASSIGNMENT OR DELEGATION</u> .....	5
PSC-14	<u>PERMITS</u> .....	5
PSC-15	<u>CLAIMS FOR LABOR AND MATERIALS</u> .....	5
PSC-16	<u>CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED</u> .....	5
PSC-17	<u>RETENTION OF RECORDS, AUDIT AND REPORTS</u> .....	5
PSC-18	<u>FALSE CLAIMS ACT</u> .....	6
PSC-19	<u>BONDS</u> .....	6
PSC-20	<u>INDEMNIFICATION</u> .....	6
PSC-21	<u>INTELLECTUAL PROPERTY INDEMNIFICATION</u> .....	6

## TABLE OF CONTENTS (Continued)

PSC-22	<u>INTELLECTUAL PROPERTY WARRANTY</u> .....	7
PSC-23	<u>OWNERSHIP AND LICENSE</u> .....	7
PSC-24	<u>INSURANCE</u> .....	8
PSC-25	<u>DISCOUNT TERMS</u> .....	8
PSC-26	<u>WARRANTY AND RESPONSIBILITY OF CONTRACTOR</u> .....	8
PSC-27	<u>NON-DISCRIMINATION</u> .....	8
PSC-28	<u>EQUAL EMPLOYMENT PRACTICES</u> .....	9
PSC-29	<u>AFFIRMATIVE ACTION PROGRAM</u> .....	11
PSC-30	<u>CHILD SUPPORT ASSIGNMENT ORDERS</u> .....	15
PSC-31	<u>LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE</u> .....	16
PSC-32	<u>AMERICANS WITH DISABILITIES ACT</u> .....	17
PSC-33	<u>CONTRACTOR RESPONSIBILITY ORDINANCE</u> .....	18
PSC-34	<u>MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM</u> .....	18
PSC-35	<u>EQUAL BENEFITS ORDINANCE</u> .....	18
PSC-36	<u>SLAVERY DISCLOSURE ORDINANCE</u> .....	19
	EXHIBIT 1 - INSURANCE CONTRACTUAL REQUIREMENTS.....	20

## STANDARD PROVISIONS FOR CITY CONTRACTS

### PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### PSC-2. NUMBER OF ORIGINALS

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

### PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

**PSC-4. TIME OF EFFECTIVENESS**

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR** hereto;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-5. INTEGRATED CONTRACT**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

**PSC-6. AMENDMENT**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

**PSC-7. EXCUSABLE DELAYS**

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**PSC-8. BREACH**

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights



and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

**PSC-9. WAIVER**

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**PSC-10. TERMINATION**

**A. TERMINATION FOR CONVENIENCE**

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

**B. TERMINATION FOR BREACH OF CONTRACT**

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

**CITY'S** lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.
7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**PSC-11. INDEPENDENT CONTRACTOR**

**CONTRACTOR** is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the **CITY**.

**PSC-12. CONTRACTOR'S PERSONNEL**

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

**CONTRACTOR** shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

**PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION**

**CONTRACTOR** may not, unless it has first obtained the written permission of the **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

**PSC-14. PERMITS**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

**PSC-15. CLAIMS FOR LABOR AND MATERIALS**

**CONTRACTOR** shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

**PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

**PSC-18. FALSE CLAIMS ACT**

**CONTRACTOR** acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

**PSC-19. BONDS**

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

**PSC-20. INDEMNIFICATION**

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

**PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION**

**CONTRACTOR**, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,



and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

#### **PSC-22. INTELLECTUAL PROPERTY WARRANTY**

**CONTRACTOR** represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

#### **PSC-23. OWNERSHIP AND LICENSE**

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.



**CONTRACTOR** shall not provide or disclose any Work Product to any third party without prior written consent of the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

**PSC-24. INSURANCE**

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

**PSC-25. DISCOUNT TERMS**

**CONTRACTOR** agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

**PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR**

**CONTRACTOR** warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

**PSC-27. NON-DISCRIMINATION**

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

#### **PSC-28. EQUAL EMPLOYMENT PRACTICES**

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
  - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
  - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  - 3. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Hiring practices;
  2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  3. Training and promotional opportunities; and
  4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of the **CONTRACTOR'S** Contract with the **CITY**.

**PSC-29. AFFIRMATIVE ACTION PROGRAM**

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
  2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
  3. **CONTRACTOR** shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to



their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **CONTRACTOR** has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of **CITY** contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Affirmative Action Program provisions of **CITY** contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has breached the Affirmative Action Program provisions of a **CITY** contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the **CITY**. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that **CONTRACTOR** has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a **CITY** contract, there may be deducted from the amount payable to **CONTRACTOR** by the **CITY** under the contract, a penalty of ten dollars



(\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a **CITY** contract.

- H. Notwithstanding any other provisions of a **CITY** contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- J. Nothing contained in **CITY** contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. **CONTRACTOR** shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the **CITY**. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **CONTRACTOR** may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, **CONTRACTOR** must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
  - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
  - 2. **CONTRACTOR** may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the **CITY** with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and **CONTRACTOR**.

- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
  2. Classroom preparation for the job when not apprenticeable;
  3. Pre-apprenticeship education and preparation;
  4. Upgrading training and opportunities;
  5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
  6. The entry of qualified women, minority and all other journeymen into the industry; and
  7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the **CITY'S** Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the **CITY** and may be used at the discretion of the **CITY** in its Contract Compliance Affirmative Action Program.
- P. Intentionally blank.

- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the **CITY** and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the **CITY**.

#### **PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS**

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

**CONTRACTOR** certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

**PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE**

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
  2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
  3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
  4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.



5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

**PSC-32. AMERICANS WITH DISABILITIES ACT**

**CONTRACTOR** hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.



**PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

**PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM**

**CONTRACTOR** agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

**PSC-35. EQUAL BENEFITS ORDINANCE**

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this Contract may be retained by the **CITY**. The **CITY** may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

**CONTRACTOR** shall post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922."

**PSC-36. SLAVERY DISCLOSURE ORDINANCE**

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

## EXHIBIT 1

### **INSURANCE CONTRACTUAL REQUIREMENTS**

**CONTACT** For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at [www.lacity.org/cao/risk](http://www.lacity.org/cao/risk). The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

### **CONTRACTUAL REQUIREMENTS**

#### **CONTRACTOR AGREES THAT:**

**1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

**2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

**3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

**4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

**5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

**6. Workers' Compensation.** By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

**7. California Licensee.** All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

**8. Aggregate Limits/Impairment.** If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

ATTACHMENT C





## Costs

### Adoptions

Standard dog adoption	\$100
Standard cat adoption	\$50
Senior for Senior dog	\$25
Promotional dog price	\$0 – \$50
Two-for-one cat adoptions	\$50
\$5 Felines promotion	\$5

\* \* \* \* \*

### Clinic

Dog sterilization	\$75 for District 7 (Free if low-income qualifications met) \$125 outside of District 7
Cat sterilization	\$25 for District 7 (Free if low-income qualifications met) \$40 outside of District 7
Low-income dog sterilization	\$0
Low-income cat sterilization	\$0
Promotional zip codes	\$0
Rabies vaccination, dog	\$12
Rabies vaccination, cat	\$12
Dog combo	\$12
Cat combo	\$12
Feline leukemia	\$12
Microchip	\$20

ATTACHMENT D

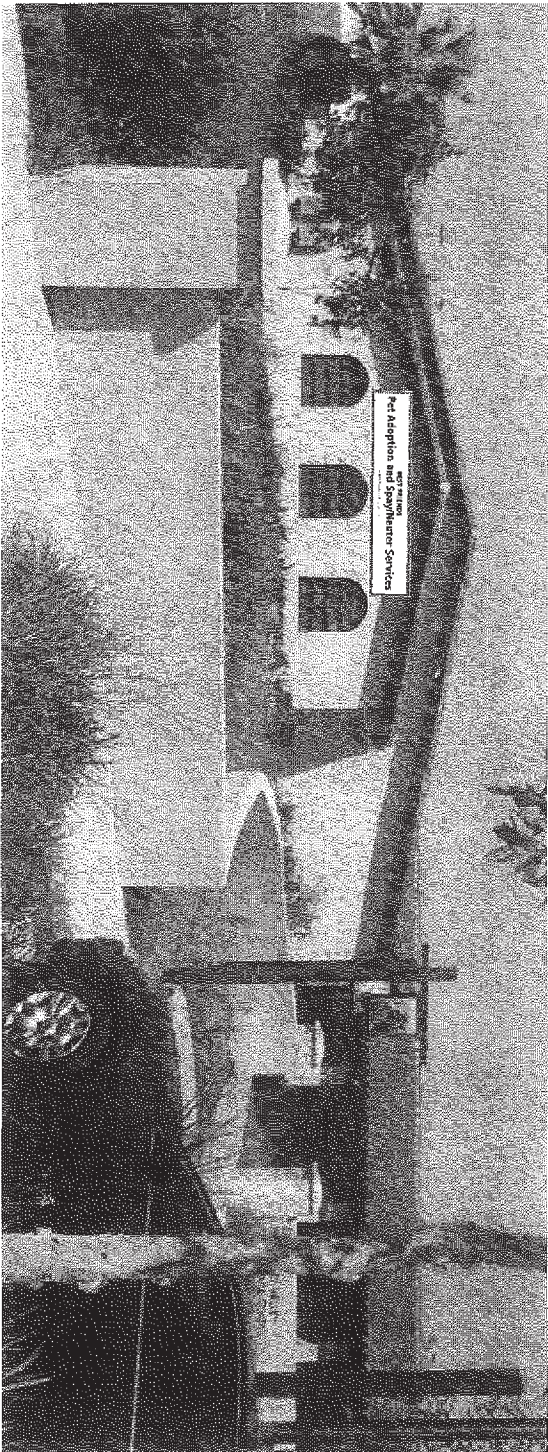


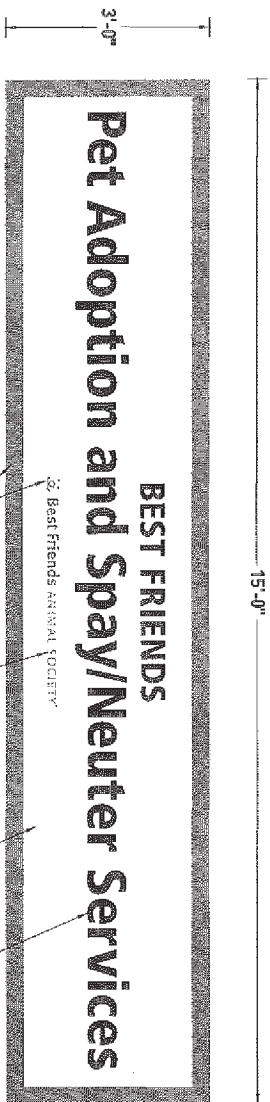
PHOTO NOT TO SCALE

# S/F BANNER

DIGITAL PRINT REINFORCED  
VINYL BANNER  
MOUNT TO WALL

## COLORS:

- (A) BLACK
- (B) WHITE
- (C) ORANGE PER ART  
(NO PMS CALLOUT)
- (D) GRAY PER ART  
(NO PMS CALLOUT)



**OUTDOOR DIMENSIONS**  
5325 E. HUNTER AVENUE  
ANAHEIM, CA 92807  
714-578-9555 / FAX 714-693-9578

**CLIENT APPROVAL:**  
(Please Check Box)  
☐ AS SHOWN  
☐ WITH CHANGES  
**CLIENT SIGNATURE** \_\_\_\_\_ **DATE** \_\_\_\_\_

YOUR SIGNATURE ACKNOWLEDGES FULL APPROVAL OF DESIGN LAYOUT AND CONTENT, RELEASING OUTDOOR DIMENSIONS FROM RESPONSIBILITY IN REGARD TO IMPROPER DESIGN AND INFORMATION. THE COLORS SHOWN ARE ONLY REPRESENTATIVE OF ACTUAL PMS COLOR CALLOUTS. FINAL COLORS WILL BE MATCHED AS CLOSE AS POSSIBLE, ONE TO TWO TONES DIRT.

REVISIONS:	PROOF (initial)	GY
A		
B		
C		
D		

**SCALE:** 3/8"=1'  
**CONCEPTS:** ☐  
**WORKING DRAWING:** ☐

**DATE:** 12/12/11  
**PROJECT:** BEST FRIENDS ANIMAL SHELTER  
**CLIENT:** BEST FRIENDS ANIMAL SHELTER  
**SALES REP:** CW  
**DESIGNER:** AGENCY  
**A1 0**  
**.25**

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BRENDA F. BARNETTE  
GENERAL MANAGER

DR. JEREMY PRUPAS  
CHIEF VETERINARIAN

## Report to the Board of Animal Services Commissioners

**MEETING DATE:** October 13, 2015

**PREPARED BY:** Jeremy Prupas, VMD

**REPORT DATE:** October 7, 2015

**TITLE:** Chief Veterinarian

**SUBJECT:** Use of Animal Welfare Trust Fund to purchase three digital radiograph machines.

### BOARD ACTIONS RECOMMENDED:

1. APPROVE the use of Animal Welfare Trust Fund monies for the purchase of three (3) digital radiograph machines for West Valley, West Los Angeles and Harbor Animal Shelters.
2. APPROVE the use of Animal Welfare Trust Fund monies to cover construction costs associated with retrofitting space at the West Los Angeles and Harbor Animal Shelters to accommodate the radiograph machines.

### SUMMARY:

The Department currently operates six animal shelters. Three of these facilities (South Los Angeles, North Central and East Valley) have a digital radiograph machine in use. These machines are utilized every day and are instrumental in allowing the Department to diagnose many different types of abnormalities in the animals that are brought into the system. These include broken bones, hernias, lung and heart disease and some types of cancers.

The shelters that do not have a radiograph machine must transport their animals to one that does. This requires substantial staff time in the transport and handling of the animal back and forth between shelters. Having machines available at each shelter would reduce unnecessary travel and allow a more expeditious diagnosis of possible abnormalities.

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In order to ensure that the radiograph machines are operating correctly and are properly maintained, a room must be designated specifically for their use. At the West Valley shelter, renovations are currently underway under Prop F that include constructing an appropriate room to house a radiograph machine. The West Los Angeles and Harbor Shelters will need to have rooms identified and renovated in order to house the machines.

**FISCAL IMPACT:**

The cost of purchasing all three radiograph machines is approximately \$160,000. This estimate is based on the cost of the current machines which includes a five-year maintenance plan. Please note that in order to procure additional machines the Department would have to engage in the bidding process as required by the City of Los Angeles. As a result, the exact cost of these machines is not currently available.

The Department has received an estimate from the Department of General Services for the construction costs associated with West Los Angeles and Harbor shelters. According to the estimate, the cost for renovating these shelters to appropriately house a radiograph machines is \$51,558.

The total fiscal impact to the Animal Welfare Trust Fund is approximately \$211,558.

Approved:

*Brenda F. Barnette*

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**Brenda Barnette, General Manager**

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**BOARD ACTION:**

\_\_\_\_\_ Passed

Disapproved \_\_\_\_\_

\_\_\_\_\_ Passed with noted modifications

Continued \_\_\_\_\_

\_\_\_\_\_ Tabled

New Date \_\_\_\_\_