

ORIGINAL

AGREEMENT

BETWEEN THE

CITY OF SAN DIEGO



AND

SAN DIEGO HUMANE SOCIETY

TO PROVIDE ANIMAL SERVICES

DOCUMENT NO. 00-21648

FILED MAY 16 2023

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

AGREEMENT

This Agreement (Agreement) is entered into by and between the City of San Diego, a municipal corporation (City), and San Diego Humane Society (Contractor).

RECITALS

- A. On October 20, 2022, City issued an RFI to prospective proposers for animal services to be provided to the City. The RFI and any addenda and exhibits thereto are collectively referred to as the “RFI.” The RFI is attached hereto as Attachment 1. Contractor responded to the City’s RFI on November 8, 2022. Contractor was the only respondent and, as stated in the RFI, the City determined that a sole source contract was applicable.
- B. City wishes to retain Contractor to animal services (Services) as further described in the Scope of Work, attached hereto as Exhibit A.
- C. City and Contractor (collectively, the “Parties”) wish to enter into an agreement whereby City will retain Contractor to provide the Services.
- D. This Agreement is exempt from competitive bidding requirements pursuant to San Diego Municipal Code (SDMC) section 22.3208(d) because the Purchasing Agent has certified that the award of a sole source contract is necessary under SDMC section 22.3016(a).

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is acknowledged, City and Contractor agree as follows:

ARTICLE 1 CONTRACTOR SERVICES

1.1 Scope of Services. Contractor shall provide the Services to the City as described in Exhibit A, Scope of Work, which is incorporated herein by reference.

Contractor shall at all times, faithfully and competently perform all tasks described therein. Contractor shall employ, at a minimum, generally accepted standards and practices utilized by meeting its obligations under this Contract.

1.2 Contract Administrator. The Parks and Recreation Department (Department) is the Contract Administrator for this Agreement. Contractor shall provide the Services under the direction of a designated representative of the Department as follows:

Tim Graham
Program Coordinator
2130 Pan American Plaza, San Diego, CA 92101
619-525-8226
tgraham@sandiego.gov

1.3 General Contract Terms and Provisions. This Agreement incorporates by reference the General Contract Terms and Provisions, attached hereto as Exhibit B.

1.4 Submittals Required with the Agreement. Contractor is required to submit all forms and information delineated in Exhibit C before the Agreement is executed.

ARTICLE 2 DURATION OF AGREEMENT

2.1 Term. This Agreement shall be for a term ten of (10) years beginning on July 1, 2023 through June 30, 2033. The term of this Agreement shall not exceed this duration unless approved by the City Council by ordinance. Years five (5) through ten (10) of the term of this Agreement are contingent on the City certifying that the award of a sole source agreement to the Contractor is necessary in accordance with SDMC §22.3016. Contractor may request a review of its compensation schedule in years three (3) and six (6) of the Agreement.

2.2 Effective Date. This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and approved by the City Attorney in accordance with San Diego Charter Section 40 (Effective Date).

2.3 Breach and Opportunity to Cure. If any Party materially breaches any part of this Contract, the non-breaching Party shall provide to the breaching Party written notice of such breach within ten (10) calendar days. Thereafter, the breaching Party shall have a reasonable opportunity to cure the breach. If the breach is not cured within sixty (60) calendar days or such longer period as may be mutually agreed upon, the non-breaching Party may seek remediation or terminate the Contract by issuing notice of termination in writing.

2.4 Amendments. Contractor and the City may amend this Contract at any time as long as both parties are amenable, and amendment is agreed to in writing.

2.5 Termination. The City may terminate this Contract for convenience as stipulated in the General Contract Terms and Provisions (Exhibit B) Section 4.2, except that the City must give six (6) months written notice of such termination to Contractor. A termination period of longer than six (6) months may be mutually agreed to by the Parties in order to facilitate a smooth disentanglement and transition of Services.

Termination of the Contract for any reason shall result in a return to the City of all assets including, but not limited to, items such as building security or maintenance equipment, field service vehicles, computers, or equipment used in support of veterinary/medical services (that were transferred to Contractor from the City before or during the Contract term), or any assets acquired by Contractor but paid for in whole by the City through the agreed upon cost of the contract. In addition, upon termination of the Contract the City shall be reimbursed for the value of any assets acquired in part with funds from the City through the agreed upon cost of the contract, in proportion to the amount of City funds used to acquire the asset. The value of the asset(s) will be evaluated and approved by the City at the time the contract terminates.

Any donations made to funds established as part of this contract, or fees and other revenues collected by Contractor on behalf of the City in excess of services provided, shall also be returned to the City upon termination of the Contract.

Upon termination or expiration of this Contract, Contractor agrees to work with the City to help ensure the continuity of animal services for City residents.

If ensuring the continuity of animal services for City residents requires the provision of services by Contractor beyond the termination or expiration date of this Contract, the City and Contractor will mutually agree upon appropriate compensation for those services before they are to be provided.

ARTICLE 3 COMPENSATION

3.1 Amount of Compensation. City shall pay Contractor for performance of all Services rendered in accordance with this Agreement, in an amount not to exceed \$222,413,170 as stipulated in Exhibit A, Section S. Compensation.

ARTICLE 4 WAGE REQUIREMENTS

4.1 Wage Requirements. This Contract incorporates by reference the City's Wage Requirements, attached hereto as Exhibit D.

ARTICLE 5 ADDITIONAL INSURANCE REQUIREMENTS

5.1 Insurance. In addition to the general requirements for insurance listed in Exhibit B, Article VII, which includes Commercial General Liability, Commercial Automobile Liability, Workers' Compensation, and Professional Liability (Errors and Omissions), the City requires Contractor carry and submit endorsements to the City for the following:

- 5.1.1 Cyber Liability with a limit of no less than \$1,000,000 per claim (incident), \$2,000,000 aggregate.
- 5.1.2 Commercial General Liability with a limit of no less than \$2,000,000 per occurrence, \$4,000,000 aggregate.

ARTICLE 6 FACILITY TO BE LEASED

6.1 The Parties will enter into the CITY OF SAN DIEGO LEASE BY AND BETWEEN THE CITY OF SAN DIEGO, A CALIFORNIA MUNICIPAL CORPORATION, AND SAN

DIEGO HUMANE SOCIETY, A 501 (c)(3) CORPORATION for the property located at 5480 Gaines Street, San Diego, California (Lease) a copy of which is attached as Exhibit E. The term of the Lease is coterminous with the term of this Contract. The City's obligations in the Contract are contingent upon Contractor's compliance with the terms and provisions of the Lease.

ARTICLE 7 DONATIONS

7.1 Donations made to Contractor in the City's name or on behalf of the City will be accounted for and reported to the City as part of Contractor's annual report as detailed in Exhibit A, Section G, 10, a, viii (Reports, Quarterly Reports).

ARTICLE 8 CONTRACT DOCUMENTS

8.1 Contract Documents. This Agreement including its exhibits completely describes the goods and services to be provided.

8.2 Contract Interpretation. The Contract Documents completely describe the Services to be provided. Contractor will provide any Services that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result whether or not specifically called for or identified in the Contract Documents. Words or phrases which have a well-known technical or construction industry or trade meaning and are used to describe Services will be interpreted in accordance with that meaning unless a definition has been provided in the Contract Documents.

8.3 Precedence. In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the Parties will use the order of precedence as set forth below. The first document has the highest priority. Inconsistent provisions in the Contract Documents that address the same subject, are consistent, and have different degrees of specificity, are not in conflict and the more specific language will control. The order of precedence from highest to lowest is as follows:

- 1st Any properly executed written amendment to the Contract.
- 2nd The Contract and all incorporated Exhibits.
- 3rd The RFI and the City's written acceptance of any exceptions or clarifications to the RFI, if any.

In the event of conflicting provisions in Exhibit B and this Contract, this Contract prevails.

8.4 Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

IN WITNESS WHEREOF, this Agreement is executed by City and Contractor acting by and through their authorized officers.

CONTRACTOR
SAN DIEGO HUMANE SOCIETY

CITY OF SAN DIEGO
A Municipal Corporation

By: Gary Weitzman
Gary Weitzman (Apr 26, 2023 21:12 PDT)

By: 

Name: Gary Weitzman

Name: Alia Khouri, Deputy Chief Operating Officer

Title: President and CEO

Director, Purchasing & Contracting

Date: Apr 26, 2023

Date: June 27, 2023

Approved as to form this 27 day of
June, 2023.
MARA W. ELLIOTT, City Attorney

By: 
Deputy City Attorney

Karen Li
Print Name

EXHIBIT A
SCOPE OF WORK

A. GOALS AND OBJECTIVES. The City of San Diego has the expectation that the Contractor will be able to:

1. Provide the highest level of care to all the animals under its care and control.
2. Provide the highest level of customer service to the visitors of the animal shelter facilities and users of the website.
3. Provide transparent operations that exceed industry best practices with regards to elements mentioned in this scope of work.
4. Engage in collaborative partnerships with stakeholders.
5. Competently and safely perform all aspects of this scope of work.

B. SCOPE OF SERVICES OVERVIEW. Contractor shall provide animal sheltering, medical and veterinary services, and animal field services to all residents of the City of San Diego required by, and in accordance with, this Contract and the laws, regulations, ordinances, and codes of the State of California, County of San Diego, and the City as further specified by this Contract, including, but not be limited to:

1. The overall management of shelter operations including:
 - a. The acceptance and care of surrendered, stray, injured, or lost animals
 - b. Tracking all animal intake and inventory management
 - c. Redemption of animals to owners
 - d. Euthanasia
 - e. Animal disposal
 - f. Veterinary care
 - g. Spay, neuter, and vaccination of animals
 - h. Animal sheltering, feeding, cleaning
 - i. Adoptions
 - j. Animal enrichment activities
 - k. Rescue programs
 - l. Foster care
 - m. Special event production
 - n. Facility management
 - o. Facility maintenance and improvement
 - p. Recruitment and training of staff
 - q. Implementation of volunteer services program
 - r. Dangerous dog hearings
 - s. Coordination with other local, State, and national agencies

2. Manage and enforce the City’s dog licensing program.
3. Manage and coordinate all shelter-related communications.
4. Enforce leash laws and “no dog” areas in certain beaches and parks.
5. Perform kennel inspections.
6. Produce, perform, or maintain billings, budget monitoring, financial reporting, annual audits, computerized financial systems, report preparation.
7. Disaster preparedness.

The City will lease the property at 5480 Gaines Street (hereafter referred to as the “Gaines Street Shelter”) to the Contractor and work with the Contractor on a facility plan for upgrades and any deferred maintenance plans, based upon the City’s most recent facility review. The lease is attached hereto as Exhibit E. In addition, Contractor may shelter City animals that will not be housed at 5480 Gaines Street including livestock and horses, at one of their locations in San Diego, Oceanside, Escondido, or El Cajon.

Contractor will continue to review options for an animal sheltering facility to be located in southern San Diego. Contractor proposals for a sheltering facility in southern San Diego, including all associated costs, must be reviewed and approved by the City prior to use by the Contractor.

Any City assets used by Contractor in support of animal services as described herein must be reported to the City if they are replaced. Contractor may not sell City assets without City’s written permission.

C. ANIMAL SHELTERING SERVICES AND REQUIREMENTS. Contractor will humanely, safely, competently, and efficiently provide the City with animal shelter services in compliance with all applicable local, State, and federal laws, regulations, and policies.

1. Contractor shall provide the following sheltering services at the Gaines Street Shelter:
 - a. Impounding injured domestic animals.
 - b. Euthanizing and disposing of animals determined to be unhealthy or untreatable if alternative placement is unattainable or unadvisable. Such determination will be made according to standards set forth in the *Asilomar Accords*, as implemented by the San Diego Animal Welfare Coalition.
 - c. Performing behavior and kennel enrichment programs to provide animals with an opportunity to be socialized for adoption and reduce stress while in the shelter.
 - d. Providing housing and care for stray and unwanted animals 24 hours a day, 7 days a week and holding stray and unwanted animals for the required time

period as required by the California Code of Regulations, California Statutes, and local laws.

- e. Providing housing and care for domestic animals under rabies quarantine and impounded animals from animal abuse, cruelty, or neglect according to the California Code of Regulations, California Statutes, and local laws.
- f. Providing lost and found opportunities for the general public for domestic animals brought to the Shelter. Normal operational hours shall be (at a minimum) 6 days per week, 6 hours a day, and 48 total hours each week on a schedule designed to benefit the public and facilitate the services established in this agreement. Contractor must post any temporary, non-emergency changes to normal Shelter operational hours at least one week in advance.
- g. Establishing protocols and procedures, including for maintenance and sanitary conditions, utilizing the *Guidelines for Standards of Care in Animal Shelters* published by The Association of Shelter Veterinarians for guidance.
- h. Securing the shelter facilities and kennels from unauthorized entry or exit.
- i. Making every reasonable effort to identify each animal's rightful owner, including scanning for identification chips, and to return the animal to its owner prior to making the animal available for adoption.
- j. Implement and administer a Community Cat Program as described in Exhibit F that is aligned with national best practices and includes all or some of the following components: trapping, spaying/neutering, vaccination, and medical treatment as appropriate of healthy, free-roaming cats without signs of ownership before they are returned to their outdoor homes.
- k. Providing a modern information system for the purpose of tracking animal intake and disposition, medical conditions and treatments, behavioral notes, and other data relevant to the management of animals and inventory of supplies.

The expected outcomes for the disposition of sheltered animals to be achieved by the Contractor are listed in Exhibit G.

- 2. Contractor shall provide sheltering at another permanent location(s) other than the Gaines Street Shelter that will include the sheltering of livestock and horses in its Escondido facility. Requirements associated with the emergency sheltering of animals including livestock is detailed in Section O.
- 3. Contractor shall assume all expenses to maintain and operate shelters, including the provision of adequate facility security, and to properly care for the animals.
 - a. Contractor shall feed, care for, and dispose/place all animals coming into the possession of the Contractor using safe and humane methods in accordance with State of California laws and the ordinances and administrative, regulatory, and municipal codes of the County of San Diego and the City.
 - b. Animal food shall meet nutritional and medical needs of animals.

D. MEDICAL AND VETERINARY SERVICES. Contractor shall humanely and efficiently provide medical and veterinary services in compliance with all applicable local, State, and federal laws, regulations, and policies.

Contractor shall provide the City with medical and veterinary services that include, but are not limited to, the following:

1. Animal exams, vaccinations, microchipping, dispensation of medications, disease prevention, spay or neuter surgeries, emergency care of injured animals, euthanasia, and in some cases specialty surgeries (e.g. enucleation, amputations, and wound repairs).
2. Contractor shall provide veterinary and technician services provided by trained, licensed professionals to animals requiring such care.
3. Contractor shall register and maintain current premise permits and veterinary licensing requirements as specified by the California Veterinary Medical Board.
4. Contractor shall be licensed to dispense and supply shelter and field services staff with the controlled substances necessary for performances of field captures and euthanasia at Contractor's discretion, including the monitoring and security of such substances.
5. Contractor shall dispose of dead animals in a lawful manner using an appropriately qualified and licensed disposal company.
6. Contractor Medical Services staff shall meet certification and/or license requirements set forth by the State of California, specifically for veterinarians and registered veterinary technicians.
7. Contractor shall microchip and spay/neuter all animals available for adoptions prior to pick-up by owner, where possible and appropriate, unless otherwise determined by the Contractor.
8. Contractor shall coordinate the testing of animals for rabies. When there is reasonable belief of a person's or an animal's exposure to rabies, Contractor shall immediately notify the City and Public Health personnel in accordance with State, county, and City requirements.

E. ANIMAL FIELD SERVICES AND REQUIREMENTS. Contractor shall humanely and efficiently enforce all applicable animal field services in compliance with all applicable local, State, and federal laws, regulations, and policies, including adhering to mandatory reporting requirements for the Child Abuse and Neglect Reporting Act and the Elder Abuse and Dependent Adult Civil Protection Act. When requested, Contractor shall also share animal services data, where possible and appropriate, with federal, State, and local agencies in order to

help substantiate the link between animal cruelty, neglect, and abuse to violence towards humans, in accordance with local, State, and federal law.

Contractor shall provide the City with animal field services that include, but are not limited to, the following:

1. All Humane Officers required to complete Penal Code 832 Arrest and Control baton training, issue citations, receive ongoing training and maintain proper education, experience, and/or certification. Contractor is responsible for the costs of all fees and maintenance of associated records.
2. As determined by the Contractor, if euthanasia is necessary for a sick or injured animal in the field, the euthanasia shall be conducted by trained personnel with necessary equipment.
3. Provide assistance to residents, local law enforcement, and fire agencies for animal evacuation needs, including sheltering and care, during declared or proclaimed emergencies or disasters.
4. In instances of imminent threat to human health and safety, ensure humane removal of wild animals on public or private property so long as it is safe for the Humane Officer to do so, at Officer's discretion, and in a manner that ensures human health and safety
5. Contractor is not responsible for the removal of dead animals in the public right of way or as reported by residents of the City of San Diego.
6. Picking up and caring for injured domestic animals.
7. Picking up and caring for stray domestic animals contained by residents and found within the City limits.
8. Addressing dangerous domestic animal situations.
9. Monitoring and responding to bites and enforcing rabies quarantine requirements.
10. Investigation and enforcement of vicious or dangerous dog complaints and activities associated therewith.
11. Patrolling and impounding stray dogs running at large. Contractor shall not engage in any act that endangers the public health or safety.
12. Citing dog owners who violate the rules and regulations associated with off-leash dogs in areas not designated for that activity, as per the San Diego Municipal Code (SDMC). To assist in these efforts, the Contractor will provide a Park

Officer Program as outlined in Exhibit H. The Contractor will coordinate the administration of the program with City's Parks and Recreation Department pursuant to Exhibit A, sections G.2. and J.1, and Exhibit H. Contractor shall have no fewer than four humane law enforcement officers dedicated to the Parks Patrol Program. Short-term, occasional deviations of less than one calendar week due to planned time off, call outs related to illness and other unexpected staffing events are permitted. Any long-term staffing or program changes must be agreed upon by the City. The Parties further agree to review and assess the program on an annual basis and adjust as needed. Notwithstanding anything else to the contrary in this Contract, the City may, upon mutual agreement with the Contractor, adjust the scope of work for the Park Officer Program with thirty (30) days written notice to the Contractor. The City may, in its sole discretion, terminate the Park Officer Program for convenience as stipulated in the General Contract Terms and Provisions (Exhibit B) Section 4.2, except that the City must give ninety (90) days written notice of such termination to the Contractor.

13. Providing educational opportunities to the public on proper animal care and on the rules and regulations in accordance with the local laws through webpage materials, applications, brochures, signs, and related media.
14. Conducting kennel inspections subject to licensure under San Diego County Code of Regulatory Ordinances.
15. Providing dispatch services.
 - a. The Contractor shall respond to calls for animal field services between the hours of 8 a.m. and 7 p.m., seven (7) days per week (Field Service Hours). Field Service Hours may be modified if requested by the City and agreed to by the Contractor. After-hours duty officer(s) shall respond to calls for service by priority outside of Field Service Hours and emergency responses to Priority One calls on holidays.
 - b. Priority levels for different types of animal control services shall be handled consistently with the appropriate, corresponding response times as described in Exhibit G.

F. CUSTOMER AND PUBLIC SERVICES. Contractor is responsible for providing information and services that are easily available and accessible to the general public that include, but are not limited to, the following:

1. Contractor shall provide information and be accessible to the public via telephone, website, and social media platforms, including content management and special public notifications of changes in hours, services or emergencies, adoptions, or other programs and services.

2. Contractor shall provide services and coordinate reunification of lost animals with owners.
3. Contractor shall provide animal adoption services and sponsor, coordinate, and hold adoption promotions, including providing a variety of outreach strategies, including public education and outreach opportunities that contribute to increasing the live release rate and decreasing pet overpopulation.
4. Whenever possible the Contractor shall conduct animal transfers to rescue partners, including non-profit animal rescue or adoption organizations, and in accordance with established criteria and guidelines. Unless Contractor determines that an animal is acutely suffering or poses a safety risk to humans or other animals, Contractor shall make its best effort to contact at least two rescue partners to initiate an animal transfer prior to euthanizing a City animal.
5. Contractor shall provide spay/neuter programs or other animal service initiatives.
6. Contractor shall coordinate all licensing services for the City, and provide service animal tags, rabies exemptions, and spay/neuter assistance programs.
 - a. Contractor shall manage the daily operations of dog licensing that includes, but is not limited to, processing licensing mail and processing licensing sales, tags, and vaccination reports.
 - i. Contractor shall maintain electronic files including current and expired dog licenses and the owners who live within the City, vaccination data, and citations for the past five (5) years. Animal license information shall be considered the property of the City and must be presented to the City in a reasonable documentary and computer format when requested in writing by the City. All such information must be provided to the City within fourteen (14) days of the City's request, or as per otherwise agreed upon.
 - ii. Contractor shall issue new and renewed licenses to dog license applicants within the City, and offer a one-, two-, or three-year option for dog licenses to the general public as required by applicable ordinance/law and collect applicable fees.
 - iii. Contractor shall issue Dangerous Dog licenses following proper legal notices, administrative hearings, and other mandated legal steps.
 - iv. Contractor shall provide an online service to allow pet owners to make license payments.

- v. Contractor shall issue replacement tags to dog owners whose license tags are lost, stolen, or damaged, for an applicable fee.
 - vi. Contractor shall conduct follow-up enforcement of licensing and rabies vaccinations within the City.
 - vii. Contractor shall work to increase the number of licensed, vaccinated dogs within the City of San Diego.
7. Contractor shall provide community services in accordance with Section M.
 8. Contractor shall respond to media inquiries in accordance with Section Q.
 9. Contractor shall properly respond to and resolve citizen complaints and provide City with all required records and information necessary for the City to respond to public records request in a timely manner.
 10. Contractor may perform public education and outreach.
 11. Contractor shall coordinate with other local, State, and national agencies when needed.
 12. Contractor is responsible for the proper handling of financial transactions associated with fees, fines, donations, and contract payments.

Associated performance measures for customer services are outlined in Exhibit G.

G. ADMINISTRATIVE SERVICES. The Contractor shall provide the following administrative services that include, but are not limited to, the following:

1. Designate a manager with authority to oversee the administrative requirements of the contract, ensure the delivery of all contracted services, resolve issues, and serve as the primary point of contact to the City.
2. Ensure compliance with applicable laws regarding animal control at City-owned and/or operated public parks and beaches, working collaboratively with the San Diego Police Department, Parks and Recreation Department, or other agencies as requested.
3. Manage and enforce the fee structure for the City's required dog license program within the geographical region of the City, in compliance with requirements in Exhibit G.
4. Contractor shall provide daily an appropriate number of Humane Officer(s) and animal containment vehicle(s) and equipment, to humanely, safely, competently,

and efficiently enforce all laws of the State of California and the City (and any County of San Diego laws, regulations, and ordinances as adopted by the City) pertaining to animal field services, and to meet or exceed the animal field services performance standards listed in Exhibit G.

5. Contractor shall be responsible for all expenses associated with the Services as described in this Scope of Work.
6. City shall be responsible for the payment of veterinary fees incurred as a result of any humane enforcement including, but not limited to, the enforcement of California Penal Code 597. Contractor shall attempt to recover these funds from the animal owner; however, unrecovered funds shall be paid by the City, and noted separately in Contractor quarterly reports.
7. The Contractor shall perform mandatory reporting and coordination with other local, State, and national agencies.
8. When there is reasonable belief of a person's or an animal's exposure to rabies, Contractor shall immediately notify the City and the County Public Health personnel in accordance with State and county requirements.
9. Reports.
 - a. **Quarterly Reports.** Contractor shall prepare quarterly reports to the City. The quarterly reports shall provide the following information, or include a plan for providing the information to the City if the data is not immediately available:
 - i. Animal shelter operations as they pertain to this contract, including the number of stray animals impounded, number of days held, disposition, and live-release rates.
 - ii. Euthanasia statistics for all animals by type.
 - iii. All criminal or administrative citations processed.
 - iv. Animal field service activities including number and type of incidents or reports investigated, and response times by priority.
 - v. Dispatch and call center statistics.
 - vi. Building maintenance performed at Gaines Street Animal Shelter.
 - vii. Detailed revenue and expenditure information, including waived fees, actual start-up expenditures, list of assets purchased with funds received

from the City as part of the agreed-upon costs of this contract, and assets that have been replaced.

- viii. Number of licenses processed, including identification of the number of new licenses, renewals, etc., and licensing processing times.
 - ix. Number of rabies exemption requests and processing time.
 - x. Number of rabies vaccines and microchips administered to owned animals.
 - xi. Number of kennel inspections performed.
 - xii. Number of shelter spay/neuter surgeries.
 - xiii. Number of low cost spay/neuter surgeries provided for owned animals.
 - xiv. Spay/neuter voucher program participation.
 - xv. Public education and outreach activities, with results.
 - xvi. Customer satisfaction rating.
 - xvii. Cases forwarded to the City Attorney and District Attorney for prosecution.
 - xviii. Dangerous dog hearings and findings.
 - xix. Rescue Partner updates including number of animals transferred to rescue.
- b. Governmental Reports.** Should the City be required to furnish information to another governmental agency, the Contractor agrees to provide the information in a timely manner so that the City may meet such request.
- c. Annual Reports.** Contractor shall provide an annual report to the City by September 30 following the fiscal year end close date of June 30. The annual report shall include updates to data provided in the quarterly reports as well as the number of spay/neuter vouchers provided to members of the public, data for all performance measures included in Exhibit G, and the number of volunteers per facility/program.
- d. Record Retention.** All records and information required to be kept by the Contractor pursuant to this agreement shall be kept according to the City's

record retention policy, unless required by law to be kept for a longer period of time.

- e. **Data Security.** System(s) for data and records management must include sufficient measures to maintain confidentiality and data security.
- f. **Business Reviews.** Contractor shall agree to meet monthly for business reviews as well as review service levels and performance measures listed in Exhibit G.

H. LICENSES AND CREDENTIALS. Contractor is responsible for maintaining and updating all State and locally required licensure. This includes credentials for staff requiring specialized training or credentials to complete all identified tasks identified within the Scope of Work for the duration of this Contract.

I. RESCUE PARTNERS. Contractor shall maintain, at their discretion, agreements with affiliated service partners as listed in the Contractor's RFI (Exhibit I), to ensure that the City's capacity and demand for services and care are met. Contractor shall explore and expand its network with qualified partners, whose missions align with the City's and Humane Society's goals and objectives for this Contract. Contractor will include updates to the Contractor's rescue partner network with their quarterly reports to the City. Contractor shall maintain partnerships with regional rescue partnerships to facilitate the placement of adoptable, fosterable animals. The Contractor shall report out on the success of its rescue program as part of the reporting requirements of this Contract. Report on the success of Contractor's rescue programs will be submitted consistently with all reports which pertain to this Contract.

J. COORDINATION WITH EXISTING CITY DEPARTMENTS. Contractor shall communicate and work with City Departments when providing services under this Contract. Contact information for the following City departments is listed in Exhibit J.

- 1. **Parks and Recreation.** For operations within City parks and open space areas, the Contractor will coordinate with the Parks and Recreation Department for animal control matters such as off-leash dogs, animal waste violations, restricted parks per the SDMC (example: Mission Bay and Shoreline parks have limitations on when dogs may be present, leashed or not), and related matters, as able. The Parks and Recreation Department includes the following Divisions:
 - Community Parks I: community and neighborhood parks generally north of Interstate 8 within Council Districts 1, 2, 5, 6, and 7; downtown parks; and Naval Training Center Park.
 - Community Parks II: community and neighborhood parks generally south of Interstate 8 within Council Districts 3, 4, 8, and 9; Mt. Hope Cemetery, El Campo Santo Cemetery, Chicano Park, all pools and aquatic facilities Citywide, and therapeutic recreational services.

- Developed Regional Parks: Balboa Park, Mission Bay Park, Shoreline Parks, and Presidio Park.
 - Golf: Balboa Park, Mission Bay, and Torrey Pines Golf Complexes.
 - Open Space: Black Mountain Open Space, Los Peñasquitos Canyon Preserve, Mission Trails Regional Park, Otay Valley Regional Park, Tri-Canyon (Marian Bear, Mission Valley, Rose Canyon, and Tecolote Canyon), Chollas Lake, Citywide canyons and open space areas, and Maintenance Assessment Districts.
2. **San Diego Police Department.** Contractor shall provide a dedicated contact number for the exclusive use of public safety agencies. Calls initiated by the Contractor will be made to SDPD Communications. When contacting SDPD Communications, Contractor will provide dispatchers with the contact information (cell number) for the responder in order to coordinate response times with SDPD Officers. Required response times for Contractor are detailed in Exhibit G.
 3. **Communications Department.** Contractor shall coordinate with the City's Communications Department on all media requests received, as detailed in Section Q.
 4. **Department of Information Technology and the Office of the City Treasurer.** Contractor shall immediately provide notice to the City's Information Security Officer and the Office of the City Treasurer of any unauthorized access to Contractor's payment card cardholder data.

K. RESCUE PROGRAMS. Contractor shall maintain partnerships with regional rescue partnerships to facilitate the placement of adoptable, fosterable animals. The Contractor shall report out on the success of its rescue program as part of the reporting requirements of this Contract. Report on the success of Contractor's rescue programs will be submitted consistently with all reports which pertain to this Contract.

M. COMMUNITY ENGAGEMENT AND SERVICES. Contractor may schedule, staff, and operate various community engagement events as outlined in Exhibit K. Contractor shall provide accessible and affordable spay/neuter resources for the public to alleviate overcrowding of the high volume of animals.

N. SAN DIEGO HUMANE SOCIETY PERSONNEL. The Contractor shall be dedicated to employing qualified personnel and staff to assist and carry out all duties and obligations of this Agreement. Contractor will make employment opportunities public and encourage all skilled and experienced candidates to apply. Nothing in this section shall be interpreted to create an employee-employer relationship between the City and Contractor's employees.

1. There shall be a reasonable number of Humane Officers staffed during the term of this Contract. These Humane Officers shall be qualified under California Corporations Code 14502 and California Penal Code 830.9 and capable of performing and enforcing the provisions of the City ordinance related to domestic animals. They shall not carry firearms in the performance of their duties but may carry non-lethal weapons.
2. Humane Officers shall prepare appropriate reports concerning violations, file such reports with the applicable authority when necessary, and stand ready and available to testify in a court or administrative hearing when called upon to do so concerning such violations.
3. Agents and employees of the Contractor shall treat the public with courtesy and respect at all times in performing all duties and obligations under this Contract.
4. The Contractor shall comply with personnel policies and procedures that conform to federal and State laws with respect to hiring and firing practices.
5. Contractor is responsible for ensuring Humane Officers are competent and are adequately trained for all circumstances related to the Scope of Work.

O. EMERGENCY/DISASTER RESPONSE. Contractor shall be the regional support agency to the City in the event of a declared emergency or an extraordinary event outside the normal course of business. An emergency is defined by the City as any event, seen or unforeseen, which creates a dire operational impact, threatens health and safety, or is a catastrophic system failure. The Contractor agrees to devise and share with the City its emergency/extraordinary event response deployment plan specific to the City's needs within the first year of the contract, and which shall adhere to City protocol that animal shelters will be co-located with resident evacuation centers, as well as include providing a 24-hour, seven day a week live contact information for use by City staff (telephone/text number and email address.)

1. Contractor shall participate in a minimum of one exercise with the City of San Diego Office of Homeland Security annually.
2. Contractor shall maintain a Continuity of Operations Plan (COOP) for the provision of animal services in the event of a natural disaster or other significant unanticipated event that might otherwise disrupt services.
3. Contractor may invoice the City for any costs and expenses, including staff overtime and equipment purchases and rentals, incurred by Contractor with respect to additional services provided by Contractor in connection with any disaster relief effort and which are eligible for reimbursement to Federal Emergency Management Agency (FEMA) Disaster Assistance policy 9523.19 or any successor disaster assistance policy promulgated by FEMA. The City will

reimburse Contractor for such costs and expenses, provided that such reimbursements are consistent with federal law.

P. ATTENDANCE AT MEETINGS. Contractor will provide appropriate staff for Committee and City Council meetings related to animal control fees and ordinances. The Contractor may be called upon to attend other meetings as required or requested.

Q. MEDIA REQUESTS. Contractor and City shall maintain a protocol, mutually agreed to by both parties, for initiating and responding to media requests as they relate to City animal services.

Contractor shall be responsible for routine news media inquiries and interviews including, but not limited to: animal care, adoptions, rescues, or seizures. The City's Animal Services Program Coordinator will be contacted and included on all news inquiries of a highly public and/or sensitive nature, including those that could reflect negatively on the City's or Contractor's reputation.

R. RELEASE OF INFORMATION. All information gained by the Contractor in performance of this Contract may be considered confidential and shall not be released by the Contractor without the City's prior written authorization. Contractor, and its officers, shall coordinate the release of information with the City's Animal Services Program Coordinator to ensure that information pertinent to resident data or identification is not released as part of a request for public records. Except as related to Contractor's federal, State, and local legislative advocacy activities, Contractor, and its officers, employees, agents, or subcontractors, shall not without written authorization of the City's Animal Services Program Coordinator or unless requested by the Office of the City Attorney, voluntarily provide declarations, letters of support, testimony at dispositions, response to interrogatories, or other information concerning the work performed under this Contract. Response to a subpoena or court order shall not be considered "voluntary" provided the Contractor gives the City notice of such court order or subpoena within 48 hours of receipt.

Contractor shall promptly notify the City should Contractor, its officers, employees, agents, or subcontractors be served with any summons, complaint, subpoena, discovery request, court order, or subpoena from any party regarding this Contract and the work performed there under. Contractor fully agrees to work with the City on such matters.

S. COMPENSATION. Contractor shall receive the following compensation for the performance of the Services.

- 1. Payments to the City.** City shall make monthly payments to the Contractor according to the agreed upon schedule as detailed in this contract. Compensation for the Contract term shall not exceed \$222,413,170, which reflects Contractor projected expenses minus projected revenues collected.

Compensation for Fiscal Year 2024 shall be \$16,810,152, which reflects Contractor projected expenses minus projected revenues collected for the first year of the Contract. Contractor may request an increase in compensation as set forth in section 3.4 of the City's General Contract Terms and Provisions. Notwithstanding section 3.4 of the City's General Contract Terms and Provisions, in the event that the increase in Living Wage exceeds the annual increase of the most recent CPI-U, or 5%, whichever is less, during the preceding one year term, the contractor may submit a written request to the City to increase compensation at the same rate as the increase in Living wage to address adjustments required to maintain the agreed upon levels of services performed in this Contract. Contractor must submit the annual request for increase in compensation to the City in writing at least 60 days in advance of July 1 each year. If the requested increase exceeds the greater of the increase in CPI-U and Living Wage, justification in support of the written request must include a description of the basis for the adjustment, the proposed effective date and reasons for said date, and the amount of the adjustment requested with documentation to support the requested change. City's approval of this request must be in writing.

Contractor shall also be compensated up to \$120,000 for implementing a spay/neuter voucher program effective July 1, 2023 through June 30, 2027. City shall compensate Contractor for redeemed spay/neuter vouchers that Contractor shall include on the monthly invoice to the City. Any requests by the Contractor to the City for compensation for redeemed spay/neuter vouchers must include a report of the number of vouchers distributed, the number of vouchers redeemed, and the associated cost of each.

Contractor may also submit to the City, in writing, a request for funding in addition to the annual agreed upon compensation. The City may approve or reject the request. The request for additional funding must be made in advance and is limited to the following subjects:

- i. The addition of an animal sheltering facility in southern San Diego.
- ii. One-time expenditures up to \$2,200,000 to be used for the following items:
 1. Vehicles and upfitting
 2. Appliances
 3. Fixtures, furniture and equipment necessary to provide the services outlined in this scope of work.
- iii. Additional costs associated with an increase in animal services due to an unanticipated or unusual event (for example, a case resulting in the impounding of a large number of animals) that increases Contractor's annual operating costs.

- iv. Costs associated with services or programs not included in this Contract but requested by the City or proposed by the Contractor to better address the City's animal services needs.

Total Contract compensation for animal services will be up-to and not-to-exceed of \$222,413,107 over ten years.

- 2. **Compensation Schedule.** Total Compensation for the Contract term (10 years) of this Contract shall be an annual amount as agreed upon by both parties. Should the City and the Contractor seek to extend the Agreement beyond ten (10) years, the Agreement terms may be reconsidered at that time including the performance measures and standards of service, and the annual compensation. Any assets acquired by the Contractor but paid for *in whole* by the City through the agreed upon cost of the contract including start-up costs, are considered the property of the City and will be transferred to the City upon the termination of the Agreement. The City shall be reimbursed for any assets that are acquired *in part* with funds from the City in proportion to the amount of City funds used to acquire the asset, upon termination of the Agreement. The value of the asset(s) will be evaluated and approved by the City, at the time the Agreement terminates.

T. FEES. The City may assign the Contractor the ability to collect fees and fines, including for the licensing of animals, in accordance with the fee schedule as approved by City Council. If the City assigns the Contractor the ability to collect these fees and fines, Contractor shall offset the expense of compensation owed by the City with the revenue collected in fees. If Compensation from the City and collected fees and fines from the public exceeds expenses, Contractor shall apply excess to the annual fund monthly invoice. Contractor is responsible for informing the City of, and complying with, the laws, regulations, ordinances, and codes of the State of California, and County of San Diego that governs the use and allocation of any such fees or fines collected.

The Contractor will evaluate fees annually and make a recommendation to the City for setting new fees. No fees will be increased without City Council approval and the Contractor will be responsible for complying with the City's published fee schedule. Unauthorized fee increases may not be enforced. Contractor may waive the charging of fees, either in whole or in part, in the course of conducting business if approved by the City. Contractor must report on waived fees in quarterly reports to the City.

EXHIBIT B



THE CITY OF SAN DIEGO
GENERAL CONTRACT TERMS AND PROVISIONS
APPLICABLE TO GOODS, SERVICES, AND CONSULTANT CONTRACTS

ARTICLE I SCOPE AND TERM OF CONTRACT

1.1 Scope of Contract. The scope of contract between the City and a provider of goods and/or services (Contractor) is described in the Contract Documents. The Contract Documents are comprised of the Request for Proposal, Invitation to Bid, or other solicitation document (Solicitation); the successful bid or proposal; the letter awarding the contract to Contractor; the City's written acceptance of exceptions or clarifications to the Solicitation, if any; and these General Contract Terms and Provisions.

1.2 Effective Date. A contract between the City and Contractor (Contract) is effective on the last date that the contract is signed by the parties and approved by the City Attorney in accordance with Charter section 40. Unless otherwise terminated, this Contract is effective until it is completed or as otherwise agreed upon in writing by the parties, whichever is the earliest. A Contract term cannot exceed five (5) years unless approved by the City Council by ordinance.

1.3 Contract Extension. The City may, in its sole discretion, unilaterally exercise an option to extend the Contract as described in the Contract Documents. In addition, the City may, in its sole discretion, unilaterally extend the Contract on a month-to-month basis following contract expiration if authorized under Charter section 99 and the Contract Documents. Contractor shall not increase its pricing in excess of the percentage increase described in the Contract.

ARTICLE II CONTRACT ADMINISTRATOR

2.1 Contract Administrator. The Purchasing Agent or designee is the Contract Administrator for purposes of this Contract, and has the responsibilities described in this Contract, in the San Diego Charter, and in Chapter 2, Article 2, Divisions 5, 30, and 32.

2.1.1 Contractor Performance Evaluations. The Contract Administrator will evaluate Contractor's performance as often as the Contract Administrator deems necessary throughout the term of the contract. This evaluation will be based on criteria including the quality of goods or services, the timeliness of performance, and adherence to applicable laws, including prevailing wage and living wage. City will provide Contractors who receive an unsatisfactory rating with a copy of the evaluation and an opportunity to respond. City may consider final evaluations, including Contractor's response, in evaluating future proposals and bids for contract award.

2.2 Notices. Unless otherwise specified, in all cases where written notice is required under this Contract, service shall be deemed sufficient if the notice is personally delivered or deposited in the United States mail, with first class postage paid, attention to the Purchasing Agent. Proper notice is effective on the date of personal delivery or five (5) days after deposit in a United States postal mailbox unless provided otherwise in the Contract. Notices to the City shall be sent to:

Purchasing Agent
City of San Diego, Purchasing and Contracting Division
1200 3rd Avenue, Suite 200
San Diego, CA 92101-4195

ARTICLE III COMPENSATION

3.1 Manner of Payment. Contractor will be paid monthly, in arrears, for goods and/or services provided in accordance with the terms and provisions specified in the Contract.

3.2 Invoices.

3.2.1 Invoice Detail. Contractor's invoice must be on Contractor's stationary with Contractor's name, address, and remittance address if different. Contractor's invoice must have a date, an invoice number, a purchase order number, a description of the goods or services provided, and an amount due.

3.2.2 Service Contracts. Contractor must submit invoices for services to City by the 10th of the month following the month in which Contractor provided services. Invoices must include the address of the location where services were performed and the dates in which services were provided.

3.2.3 Goods Contracts. Contractor must submit invoices for goods to City within seven days of the shipment. Invoices must describe the goods provided.

3.2.4 Parts Contracts. Contractor must submit invoices for parts to City within seven calendar (7) days of the date the parts are shipped. Invoices must include the manufacturer of the part, manufacturer's published list price, percentage discount applied in accordance with Pricing Page(s), the net price to City, and an item description, quantity, and extension.

3.2.5 Extraordinary Work. City will not pay Contractor for extraordinary work unless Contractor receives prior written authorization from the Contract Administrator. Failure to do so will result in payment being withheld for services. If approved, Contractor will include an invoice that describes the work performed and the location where the work was performed, and a copy of the Contract Administrator's written authorization.

3.2.6 Reporting Requirements. Contractor must submit the following reports using the City's web-based contract compliance portal. Incomplete and/or delinquent reports may cause payment delays, non-payment of invoice, or both. For questions, please view the City's online tutorials on how to utilize the City's web-based contract compliance portal.

3.2.6.1 Monthly Employment Utilization Reports. Contractor and Contractor's subcontractors and suppliers must submit Monthly Employment Utilization Reports by the fifth (5th) day of the subsequent month.

3.2.6.2 Monthly Invoicing and Payments. Contractor and Contractor's subcontractors and suppliers must submit Monthly Invoicing and Payment Reports by the fifth (5th) day of the subsequent month.

3.3 Annual Appropriation of Funds. Contractor acknowledges that the Contract term may extend over multiple City fiscal years, and that work and compensation under this Contract is contingent on the City Council appropriating funding for and authorizing such work and compensation for those fiscal years. This Contract may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. City is not obligated to pay Contractor for any amounts not duly appropriated and authorized by City Council.

3.4 Price Adjustments. Based on Contractor's written request and justification, the City may approve an increase in unit prices on Contractor's pricing pages consistent with the amount requested in the justification in an amount not to exceed the increase in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U) as published by the Bureau of Labor Statistics, or 5.0%, whichever is less, during the preceding one year term. If the CPI-U is a negative number, then the unit prices shall not be adjusted for that option year (the unit prices will not be decreased). A negative CPI-U shall be counted against any subsequent increases in the CPI-U when calculating the unit prices for later option years. Contractor must provide such written request and justification no less than sixty days before the date in which City may exercise the option to renew the contract, or sixty days before the anniversary date of the Contract. Justification in support of the written request must include a description of the basis for the adjustment, the proposed effective date and reasons for said date, and the amount of the adjustment requested with documentation to support the requested change (e.g. CPI-U or 5.0%, whichever is less). City's approval of this request must be in writing.

ARTICLE IV SUSPENSION AND TERMINATION

4.1 City's Right to Suspend for Convenience. City may suspend all or any portion of Contractor's performance under this Contract at its sole option and for its convenience for a reasonable period of time not to exceed six (6) months. City must first give ten (10) days' written notice to Contractor of such suspension. City will pay to Contractor a sum equivalent to the reasonable value of the goods and/or services satisfactorily provided up to the date of suspension. City may rescind the suspension prior to or at six (6) months by providing Contractor with written notice of the rescission, at which time Contractor would be required to resume performance in compliance with the terms and provisions of this Contract. Contractor will be entitled to an extension of time to complete performance under the Contract equal to the length of the suspension unless otherwise agreed to in writing by the Parties.

4.2 City's Right to Terminate for Convenience. City may, at its sole option and for its convenience, terminate all or any portion of this Contract by giving thirty (30) days' written notice of such termination to Contractor. The termination of the Contract shall be effective upon receipt of the notice by Contractor. After termination of all or any portion of the Contract, Contractor shall: (1) immediately discontinue all affected performance (unless the notice directs otherwise); and (2) complete any and all additional work necessary for the orderly filing of

documents and closing of Contractor's affected performance under the Contract. After filing of documents and completion of performance, Contractor shall deliver to City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials created or received by Contractor in performing this Contract, whether completed or in process. By accepting payment for completion, filing, and delivering documents as called for in this section, Contractor discharges City of all of City's payment obligations and liabilities under this Contract with regard to the affected performance.

4.3 City's Right to Terminate for Default. Contractor's failure to satisfactorily perform any obligation required by this Contract constitutes a default. Examples of default include a determination by City that Contractor has: (1) failed to deliver goods and/or perform the services of the required quality or within the time specified; (2) failed to perform any of the obligations of this Contract; and (3) failed to make sufficient progress in performance which may jeopardize full performance.

4.3.1 If Contractor fails to satisfactorily cure a default within ten (10) calendar days of receiving written notice from City specifying the nature of the default, City may immediately cancel and/or terminate this Contract, and terminate each and every right of Contractor, and any person claiming any rights by or through Contractor under this Contract.

4.3.2 If City terminates this Contract, in whole or in part, City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, equivalent goods or services and Contractor shall be liable to City for any excess costs. Contractor shall also continue performance to the extent not terminated.

4.4 Termination for Bankruptcy or Assignment for the Benefit of Creditors. If Contractor files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to, or demand upon Contractor, terminate this Contract, and terminate each and every right of Contractor, and any person claiming rights by and through Contractor under this Contract.

4.5 Contractor's Right to Payment Following Contract Termination.

4.5.1 Termination for Convenience. If the termination is for the convenience of City an equitable adjustment in the Contract price shall be made. No amount shall be allowed for anticipated profit on unperformed services, and no amount shall be paid for an as needed contract beyond the Contract termination date.

4.5.2 Termination for Default. If, after City gives notice of termination for failure to fulfill Contract obligations to Contractor, it is determined that Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of City. In such event, adjustment in the Contract price shall be made as provided in Section 4.3.2. City's rights and remedies are in addition to any other rights and remedies provided by law or under this Contract.

4.6 Remedies Cumulative. City's remedies are cumulative and are not intended to be exclusive of any other remedies or means of redress to which City may be lawfully entitled in case of any breach or threatened breach of any provision of this Contract.

ARTICLE V ADDITIONAL CONTRACTOR OBLIGATIONS

5.1 Inspection and Acceptance. The City will inspect and accept goods provided under this Contract at the shipment destination unless specified otherwise. Inspection will be made and acceptance will be determined by the City department shown in the shipping address of the Purchase Order or other duly authorized representative of City.

5.2 Responsibility for Lost or Damaged Shipments. Contractor bears the risk of loss or damage to goods prior to the time of their receipt and acceptance by City. City has no obligation to accept damaged shipments and reserves the right to return damaged goods, at Contractor's sole expense, even if the damage was not apparent or discovered until after receipt.

5.3 Responsibility for Damages. Contractor is responsible for all damage that occurs as a result of Contractor's fault or negligence or that of its' employees, agents, or representatives in connection with the performance of this Contract. Contractor shall immediately report any such damage to people and/or property to the Contract Administrator.

5.4 Delivery. Delivery shall be made on the delivery day specified in the Contract Documents. The City, in its sole discretion, may extend the time for delivery. The City may order, in writing, the suspension, delay or interruption of delivery of goods and/or services.

5.5 Delay. Unless otherwise specified herein, time is of the essence for each and every provision of the Contract. Contractor must immediately notify City in writing if there is, or it is anticipated that there will be, a delay in performance. The written notice must explain the cause for the delay and provide a reasonable estimate of the length of the delay. City may terminate this Contract as provided herein if City, in its sole discretion, determines the delay is material.

5.5.1 If a delay in performance is caused by any unforeseen event(s) beyond the control of the parties, City may allow Contractor to a reasonable extension of time to complete performance, but Contractor will not be entitled to damages or additional compensation. Any such extension of time must be approved in writing by City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the performance; inability to obtain materials, equipment or labor; or other specific reasons agreed to between City and Contractor. This provision does not apply to a delay caused by Contractor's acts or omissions. Contractor is not entitled to an extension of time to perform if a delay is caused by Contractor's inability to obtain materials, equipment, or labor unless City has received, in a timely manner, documentary proof satisfactory to City of Contractor's inability to obtain materials, equipment, or labor, in which case City's approval must be in writing.

5.6 Restrictions and Regulations Requiring Contract Modification. Contractor shall immediately notify City in writing of any regulations or restrictions that may or will require Contractor to alter the material, quality, workmanship, or performance of the goods and/or services to be provided. City reserves the right to accept any such alteration, including any resulting reasonable price adjustments, or to cancel the Contract at no expense to the City.

5.7 Warranties. All goods and/or services provided under the Contract must be warranted by Contractor or manufacturer for at least twelve (12) months after acceptance by City, except automotive equipment. Automotive equipment must be warranted for a minimum of 12,000 miles or 12 months, whichever occurs first, unless otherwise stated in the Contract. Contractor is responsible to City for all warranty service, parts, and labor. Contractor is required to ensure that warranty work is performed at a facility acceptable to City and that services, parts, and labor are available and provided to meet City's schedules and deadlines. Contractor may establish a warranty service contract with an agency satisfactory to City instead of performing the warranty service itself. If Contractor is not an authorized service center and causes any damage to equipment being serviced, which results in the existing warranty being voided, Contractor will be liable for all costs of repairs to the equipment, or the costs of replacing the equipment with new equipment that meets City's operational needs.

5.8 Industry Standards. Contractor shall provide goods and/or services acceptable to City in strict conformance with the Contract. Contractor shall also provide goods and/or services in accordance with the standards customarily adhered to by an experienced and competent provider of the goods and/or services called for under this Contract using the degree of care and skill ordinarily exercised by reputable providers of such goods and/or services. Where approval by City, the Mayor, or other representative of City is required, it is understood to be general approval only and does not relieve Contractor of responsibility for complying with all applicable laws, codes, policies, regulations, and good business practices.

5.9 Records Retention and Examination. Contractor shall retain, protect, and maintain in an accessible location all records and documents, including paper, electronic, and computer records, relating to this Contract for five (5) years after receipt of final payment by City under this Contract. Contractor shall make all such records and documents available for inspection, copying, or other reproduction, and auditing by authorized representatives of City, including the Purchasing Agent or designee. Contractor shall make available all requested data and records at reasonable locations within City or County of San Diego at any time during normal business hours, and as often as City deems necessary. If records are not made available within the City or County of San Diego, Contractor shall pay City's travel costs to the location where the records are maintained and shall pay for all related travel expenses. Failure to make requested records available for inspection, copying, or other reproduction, or auditing by the date requested may result in termination of the Contract. Contractor must include this provision in all subcontracts made in connection with this Contract.

5.9.1 Contractor shall maintain records of all subcontracts entered into with all firms, all project invoices received from Subcontractors and Suppliers, all purchases of materials and services from Suppliers, and all joint venture participation. Records shall show name, telephone number including area code, and business address of each Subcontractor and Supplier, and joint venture partner, and the total amount actually paid to each firm. Project relevant records, regardless of tier, may be periodically reviewed by the City.

5.10 Quality Assurance Meetings. Upon City's request, Contractor shall schedule one or more quality assurance meetings with City's Contract Administrator to discuss Contractor's performance. If requested, Contractor shall schedule the first quality assurance meeting no later than eight (8) weeks from the date of commencement of work under the Contract. At the quality assurance meeting(s), City's Contract Administrator will provide Contractor with feedback, will note any deficiencies in Contract performance, and provide Contractor with an opportunity to address and correct such deficiencies. The total number of quality assurance meetings that may be required by City will depend upon Contractor's performance.

5.11 Duty to Cooperate with Auditor. The City Auditor may, in his sole discretion, at no cost to the City, and for purposes of performing his responsibilities under Charter section 39.2, review Contractor's records to confirm contract compliance. Contractor shall make reasonable efforts to cooperate with Auditor's requests.

5.12 Safety Data Sheets. If specified by City in the solicitation or otherwise required by this Contract, Contractor must send with each shipment one (1) copy of the Safety Data Sheet (SDS) for each item shipped. Failure to comply with this procedure will be cause for immediate termination of the Contract for violation of safety procedures.

5.13 Project Personnel. Except as formally approved by the City, the key personnel identified in Contractor's bid or proposal shall be the individuals who will actually complete the work. Changes in staffing must be reported in writing and approved by the City.

5.13.1 Criminal Background Certification. Contractor certifies that all employees working on this Contract have had a criminal background check and that said employees are clear of any sexual and drug related convictions. Contractor further certifies that all employees hired by Contractor or a subcontractor shall be free from any felony convictions.

5.13.2 Photo Identification Badge. Contractor shall provide a company photo identification badge to any individual assigned by Contractor or subcontractor to perform services or deliver goods on City premises. Such badge must be worn at all times while on City premises. City reserves the right to require Contractor to pay fingerprinting fees for personnel assigned to work in sensitive areas. All employees shall turn in their photo identification badges to Contractor upon completion of services and prior to final payment of invoice.

5.14 Standards of Conduct. Contractor is responsible for maintaining standards of employee competence, conduct, courtesy, appearance, honesty, and integrity satisfactory to the City.

5.14.1 Supervision. Contractor shall provide adequate and competent supervision at all times during the Contract term. Contractor shall be readily available to meet with the City. Contractor shall provide the telephone numbers where its representative(s) can be reached.

5.14.2 City Premises. Contractor's employees and agents shall comply with all City rules and regulations while on City premises.

5.14.3 Removal of Employees. City may request Contractor immediately remove from assignment to the City any employee found unfit to perform duties at the City. Contractor shall comply with all such requests.

5.15 Licenses and Permits. Contractor shall, without additional expense to the City, be responsible for obtaining any necessary licenses, permits, certifications, accreditations, fees and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to Contract performance. This includes, but is not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.

5.16 Contractor and Subcontractor Registration Requirements. Prior to the award of the Contract or Task Order, Contractor and Contractor's subcontractors and suppliers must register with the City's web-based vendor registration and bid management system. The City may not award the Contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified by the City, the City reserves the right to rescind the Contract award and to make the award to the next responsive and responsible proposer of bidder.

ARTICLE VI INTELLECTUAL PROPERTY RIGHTS

6.1 Rights in Data. If, in connection with the services performed under this Contract, Contractor or its employees, agents, or subcontractors, create artwork, audio recordings, blueprints, designs, diagrams, documentation, photographs, plans, reports, software, source code, specifications, surveys, system designs, video recordings, or any other original works of authorship, whether written or readable by machine (Deliverable Materials), all rights of Contractor or its subcontractors in the Deliverable Materials, including, but not limited to publication, and registration of copyrights, and trademarks in the Deliverable Materials, are the sole property of City. Contractor, including its employees, agents, and subcontractors, may not use any Deliverable Material for purposes unrelated to Contractor's work on behalf of the City without prior written consent of City. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City, without the prior written consent of the City.

6.2 Intellectual Property Rights Assignment. For no additional compensation, Contractor hereby assigns to City all of Contractor's rights, title, and interest in and to the content of the Deliverable Materials created by Contractor or its employees, agents, or subcontractors, including copyrights, in connection with the services performed under this Contract. Contractor

shall promptly execute and deliver, and shall cause its employees, agents, and subcontractors to promptly execute and deliver, upon request by the City or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the City, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials. Contractor also shall cooperate and assist in the prosecution of any action or opposition proceeding involving such intellectual property rights and any adjudication of those rights.

6.3 Contractor Works. Contractor Works means tangible and intangible information and material that: (a) had already been conceived, invented, created, developed or acquired by Contractor prior to the effective date of this Contract; or (b) were conceived, invented, created, or developed by Contractor after the effective date of this Contract, but only to the extent such information and material do not constitute part or all of the Deliverable Materials called for in this Contract. All Contractor Works, and all modifications or derivatives of such Contractor Works, including all intellectual property rights in or pertaining to the same, shall be owned solely and exclusively by Contractor.

6.4 Subcontracting. In the event that Contractor utilizes a subcontractor(s) for any portion of the work that comprises the whole or part of the specified Deliverable Materials to the City, the agreement between Contractor and the subcontractor shall include a statement that identifies the Deliverable Materials as a “works for hire” as described in the United States Copyright Act of 1976, as amended, and that all intellectual property rights in the Deliverable Materials, whether arising in copyright, trademark, service mark or other forms of intellectual property rights, belong to and shall vest solely with the City. Further, the agreement between Contractor and its subcontractor shall require that the subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to City, all titles, rights and interests in and to the Deliverable Materials, including all copyrights, trademarks and other intellectual property rights. City shall have the right to review any such agreement for compliance with this provision.

6.5 Intellectual Property Warranty and Indemnification. Contractor represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this Contract are either original, or not encumbered, and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Contractor to produce, at Contractor’s own expense, new non-infringing materials, deliverables or works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Contractor further agrees to indemnify, defend, and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages, of any type, alleging or threatening that any Deliverable Materials, supplies, equipment, services or works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claim of Infringement). If a Third Party Claim

of Infringement is threatened or made before Contractor receives payment under this Contract, City shall be entitled, upon written notice to Contractor, to withhold some or all of such payment.

6.6 Software Licensing. Contractor represents and warrants that the software, if any, as delivered to City, does not contain any program code, virus, worm, trap door, back door, time or clock that would erase data or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of licensor-selected conditions or manually on command. Contractor further represents and warrants that all third party software, delivered to City or used by Contractor in the performance of the Contract, is fully licensed by the appropriate licensor.

6.7 Publication. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City without prior written consent from the City.

6.8 Royalties, Licenses, and Patents. Unless otherwise specified, Contractor shall pay all royalties, license, and patent fees associated with the goods that are the subject of this solicitation. Contractor warrants that the goods, materials, supplies, and equipment to be supplied do not infringe upon any patent, trademark, or copyright, and further agrees to defend any and all suits, actions and claims for infringement that are brought against the City, and to defend, indemnify and hold harmless the City, its elected officials, officers, and employees from all liability, loss and damages, whether general, exemplary or punitive, suffered as a result of any actual or claimed infringement asserted against the City, Contractor, or those furnishing goods, materials, supplies, or equipment to Contractor under the Contract.

ARTICLE VII INDEMNIFICATION AND INSURANCE

7.1 Indemnification. To the fullest extent permitted by law, Contractor shall defend (with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City and its elected officials, officers, employees, agents, and representatives (Indemnified Parties) from and against any and all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Contractor or its subcontractors), expense, and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, and litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any goods provided or performance of services under this Contract by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or anyone that either of them control. Contractor's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or willful misconduct of the Indemnified Parties.

7.2 Insurance. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or

in connection with the performance of the work hereunder and the results of that work by Contractor, his agents, representatives, employees or subcontractors.

Contractor shall provide, at a minimum, the following:

7.2.1 Commercial General Liability. Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

7.2.2 Commercial Automobile Liability. Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) or, if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

7.2.3 Workers' Compensation. Insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

7.2.4 Professional Liability (Errors and Omissions). For consultant contracts, insurance appropriate to Consultant’s profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

7.2.5 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

7.2.5.1 Additional Insured Status. The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

7.2.5.2 Primary Coverage. For any claims related to this contract, Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

7.2.5.3 Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

7.2.5.4 Waiver of Subrogation. Contractor hereby grants to City a waiver of any right to subrogation which the Workers' Compensation insurer of said Contractor may acquire against City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

7.2.5.5 Claims Made Policies (applicable only to professional liability). The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

7.3 Self Insured Retentions. Self-insured retentions must be declared to and approved by City. City may require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

7.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VI, unless otherwise acceptable to City.

City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

7.5 Verification of Coverage. Contractor shall furnish City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

7.6 Special Risks or Circumstances. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

7.7 Additional Insurance. Contractor may obtain additional insurance not required by this Contract.

7.8 Excess Insurance. All policies providing excess coverage to City shall follow the form of the primary policy or policies including but not limited to all endorsements.

7.9 Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as the CG 20 38 04 13 endorsement.

ARTICLE VIII BONDS

8.1 Payment and Performance Bond. Prior to the execution of this Contract, City may require Contractor to post a payment and performance bond (Bond). The Bond shall guarantee Contractor's faithful performance of this Contract and assure payment to contractors, subcontractors, and to persons furnishing goods and/or services under this Contract.

8.1.1 Bond Amount. The Bond shall be in a sum equal to twenty-five percent (25%) of the Contract amount, unless otherwise stated in the Specifications. City may file a claim against the Bond if Contractor fails or refuses to fulfill the terms and provisions of the Contract.

8.1.2 Bond Term. The Bond shall remain in full force and effect at least until complete performance of this Contract and payment of all claims for materials and labor, at which time it will convert to a ten percent (10%) warranty bond, which shall remain in place until the end of the warranty periods set forth in this Contract. The Bond shall be renewed annually, at least sixty (60) days in advance of its expiration, and Contractor shall provide timely proof of annual renewal to City.

8.1.3 Bond Surety. The Bond must be furnished by a company authorized by the State of California Department of Insurance to transact surety business in the State of California and which has a current A.M. Best rating of at least "A-, VIII."

8.1.4 Non-Renewal or Cancellation. The Bond must provide that City and Contractor shall be provided with sixty (60) days' advance written notice in the event of non-renewal, cancellation, or material change to its terms. In the event of non-renewal, cancellation, or material change to the Bond terms, Contractor shall provide City with evidence of the new source of surety within twenty-one (21) calendar days after the date of the notice of non-renewal, cancellation, or material change. Failure to maintain the Bond, as required herein, in full force

and effect as required under this Contract, will be a material breach of the Contract subject to termination of the Contract.

8.2 Alternate Security. City may, at its sole discretion, accept alternate security in the form of an endorsed certificate of deposit, a money order, a certified check drawn on a solvent bank, or other security acceptable to the Purchasing Agent in an amount equal to the required Bond.

ARTICLE IX CITY-MANDATED CLAUSES AND REQUIREMENTS

9.1 Contractor Certification of Compliance. By signing this Contract, Contractor certifies that Contractor is aware of, and will comply with, these City-mandated clauses throughout the duration of the Contract.

9.1.1 Drug-Free Workplace Certification. Contractor shall comply with City's Drug-Free Workplace requirements set forth in Council Policy 100-17, which is incorporated into the Contract by this reference.

9.1.2 Contractor Certification for Americans with Disabilities Act (ADA) and State Access Laws and Regulations: Contractor shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Contractor shall comply with the most restrictive requirement (i.e., that which provides the most access). Contractor also shall comply with the City's ADA Compliance/City Contractors requirements as set forth in Council Policy 100-04, which is incorporated into this Contract by reference. Contractor warrants and certifies compliance with all federal and state access laws and regulations and further certifies that any subcontract agreement for this contract contains language which indicates the subcontractor's agreement to abide by the provisions of the City's Council Policy and any applicable access laws and regulations.

9.1.3 Non-Discrimination Requirements.

9.1.3.1 Compliance with City's Equal Opportunity Contracting Program (EOCP). Contractor shall comply with City's EOCP Requirements. Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Prime Contractors shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Prime Contractor liable for any discriminatory practice of its subcontractors.

9.1.3.2 Non-Discrimination Ordinance. Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result

in Contract termination, debarment, or other sanctions. Contractor shall ensure that this language is included in contracts between Contractor and any subcontractors, vendors and suppliers.

9.1.3.3 Compliance Investigations. Upon City's request, Contractor agrees to provide to City, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Contractor for each subcontract or supply contract. Contractor further agrees to fully cooperate in any investigation conducted by City pursuant to City's Nondiscrimination in Contracting Ordinance. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.4 Equal Benefits Ordinance Certification. Unless an exception applies, Contractor shall comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code (SDMC). Failure to maintain equal benefits is a material breach of the Contract.

9.1.5 Contractor Standards. Contractor shall comply with Contractor Standards provisions codified in the SDMC. Contractor understands and agrees that violation of Contractor Standards may be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.6 Noise Abatement. Contractor shall operate, conduct, or construct without violating the City's Noise Abatement Ordinance codified in the SDMC.

9.1.7 Storm Water Pollution Prevention Program. Contractor shall comply with the City's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the SDMC, as may be amended, and any and all applicable Best Management Practice guidelines and pollution elimination requirements in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of City regardless of location.

Contractor shall comply with the City's Jurisdictional Urban Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within City boundaries as adopted by the City Council on January 22, 2008, via Resolution No. 303351, as may be amended.

Contractor shall comply with each City facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

9.1.8 Service Worker Retention Ordinance. If applicable, Contractor shall comply with the Service Worker Retention Ordinance (SWRO) codified in the SDMC.

9.1.9 Product Endorsement. Contractor shall comply with Council Policy 000-41 which requires that other than listing the City as a client and other limited endorsements, any advertisements, social media, promotions or other marketing referring to the City as a user of a product or service will require prior written approval of the Mayor or designee. Use of the City Seal or City logos is prohibited.

9.1.10 Business Tax Certificate. Unless the City Treasurer determines in writing that a contractor is exempt from the payment of business tax, any contractor doing business with the City of San Diego is required to obtain a Business Tax Certificate (BTC) and to provide a copy of its BTC to the City before a Contract is executed.

9.1.11 Equal Pay Ordinance. Unless an exception applies, Contractor shall comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. Contractor shall certify in writing that it will comply with the requirements of the EPO.

9.1.11.1 Contractor and Subcontract Requirement. The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of a Contractor to the same extent as it would apply to that Contractor. Any Contractor subject to the Equal Pay Ordinance shall require all of its subcontractors to certify compliance with the Equal Pay Ordinance in its written subcontracts.

ARTICLE X CONFLICT OF INTEREST AND VIOLATIONS OF LAW

10.1 Conflict of Interest Laws. Contractor is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices including, but not limited to, California Government Code sections 1090, *et. seq.* and 81000, *et. seq.*, and the Ethics Ordinance, codified in the SDMC. City may determine that Contractor must complete one or more statements of economic interest disclosing relevant financial interests. Upon City's request, Contractor shall submit the necessary documents to City.

10.2 Contractor's Responsibility for Employees and Agents. Contractor is required to establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business or other relationships.

10.3 Contractor's Financial or Organizational Interests. In connection with any task, Contractor shall not recommend or specify any product, supplier, or contractor with whom Contractor has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

10.4 Certification of Non-Collusion. Contractor certifies that: (1) Contractor's bid or proposal was not made in the interest of or on behalf of any person, firm, or corporation not identified; (2) Contractor did not directly or indirectly induce or solicit any other bidder or proposer to put in a sham bid or proposal; (3) Contractor did not directly or indirectly induce or

solicit any other person, firm or corporation to refrain from bidding; and (4) Contractor did not seek by collusion to secure any advantage over the other bidders or proposers.

10.5 Hiring City Employees. This Contract shall be unilaterally and immediately terminated by City if Contractor employs an individual who within the twelve (12) months immediately preceding such employment did in his/her capacity as a City officer or employee participate in negotiations with or otherwise have an influence on the selection of Contractor.

ARTICLE XI DISPUTE RESOLUTION

11.1 Mediation. If a dispute arises out of or relates to this Contract and cannot be settled through normal contract negotiations, Contractor and City shall use mandatory non-binding mediation before having recourse in a court of law.

11.2 Selection of Mediator. A single mediator that is acceptable to both parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Contract, if possible.

11.3 Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.

11.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code sections 1115 through 1128) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.

11.5 Mediation Results. Any agreements resulting from mediation shall be memorialized in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability, and their actions shall not be subject to discovery.

ARTICLE XII MANDATORY ASSISTANCE

12.1 Mandatory Assistance. If a third party dispute or litigation, or both, arises out of, or relates in any way to the services provided to the City under a Contract, Contractor, its agents, officers, and employees agree to assist in resolving the dispute or litigation upon City's request. Contractor's assistance includes, but is not limited to, providing professional consultations,

attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

12.2 Compensation for Mandatory Assistance. City will compensate Contractor for fees incurred for providing Mandatory Assistance. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of Contractor, its agents, officers, and employees, Contractor shall reimburse City for all fees paid to Contractor, its agents, officers, and employees for Mandatory Assistance.

12.3 Attorneys' Fees Related to Mandatory Assistance. In providing City with dispute or litigation assistance, Contractor or its agents, officers, and employees may incur expenses and/or costs. Contractor agrees that any attorney fees it may incur as a result of assistance provided under Section 12.2 are not reimbursable.

ARTICLE XIII MISCELLANEOUS

13.1 Headings. All headings are for convenience only and shall not affect the interpretation of this Contract.

13.2 Non-Assignment. Contractor may not assign the obligations under this Contract, whether by express assignment or by sale of the company, nor any monies due or to become due under this Contract, without City's prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Contract at the City's sole discretion. In no event shall any putative assignment create a contractual relationship between City and any putative assignee.

13.3 Independent Contractors. Contractor and any subcontractors employed by Contractor are independent contractors and not agents of City. Any provisions of this Contract that may appear to give City any right to direct Contractor concerning the details of performing or providing the goods and/or services, or to exercise any control over performance of the Contract, shall mean only that Contractor shall follow the direction of City concerning the end results of the performance.

13.4 Subcontractors. All persons assigned to perform any work related to this Contract, including any subcontractors, are deemed to be employees of Contractor, and Contractor shall be directly responsible for their work.

13.5 Covenants and Conditions. All provisions of this Contract expressed as either covenants or conditions on the part of City or Contractor shall be deemed to be both covenants and conditions.

13.6 Compliance with Controlling Law. Contractor shall comply with all applicable local, state, and federal laws, regulations, and policies. Contractor's act or omission in violation of applicable local, state, and federal laws, regulations, and policies is grounds for contract

termination. In addition to all other remedies or damages allowed by law, Contractor is liable to City for all damages, including costs for substitute performance, sustained as a result of the violation. In addition, Contractor may be subject to suspension, debarment, or both.

13.7 Governing Law. The Contract shall be deemed to be made under, construed in accordance with, and governed by the laws of the State of California without regard to the conflicts or choice of law provisions thereof.

13.8 Venue. The venue for any suit concerning solicitations or the Contract, the interpretation of application of any of its terms and conditions, or any related disputes shall be in the County of San Diego, State of California.

13.9 Successors in Interest. This Contract and all rights and obligations created by this Contract shall be in force and effect whether or not any parties to the Contract have been succeeded by another entity, and all rights and obligations created by this Contract shall be vested and binding on any party's successor in interest.

13.10 No Waiver. No failure of either City or Contractor to insist upon the strict performance by the other of any covenant, term or condition of this Contract, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Contract, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Contract, and each and every covenant, condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.

13.11 Severability. The unenforceability, invalidity, or illegality of any provision of this Contract shall not render any other provision of this Contract unenforceable, invalid, or illegal.

13.12 Drafting Ambiguities. The parties acknowledge that they have the right to be advised by legal counsel with respect to the negotiations, terms and conditions of this Contract, and the decision of whether to seek advice of legal counsel with respect to this Contract is the sole responsibility of each party. This Contract shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Contract.

13.13 Amendments. Neither this Contract nor any provision hereof may be changed, modified, amended or waived except by a written agreement executed by duly authorized representatives of City and Contractor. Any alleged oral amendments have no force or effect. The Purchasing Agent must sign all Contract amendments.

13.14 Conflicts Between Terms. If this Contract conflicts with an applicable local, state, or federal law, regulation, or court order, applicable local, state, or federal law, regulation, or court order shall control. Varying degrees of stringency among the main body of this Contract, the exhibits or attachments, and laws, regulations, or orders are not deemed conflicts, and the most stringent requirement shall control. Each party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Contract.

13.15 Survival of Obligations. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Contract, as well as all continuing obligations indicated in this Contract, shall survive, completion and acceptance of performance and termination, expiration or completion of the Contract.

13.16 Confidentiality of Services. All services performed by Contractor, and any sub-contractor(s) if applicable, including but not limited to all drafts, data, information, correspondence, proposals, reports of any nature, estimates compiled or composed by Contractor, are for the sole use of City, its agents, and employees. Neither the documents nor their contents shall be released by Contractor or any subcontractor to any third party without the prior written consent of City. This provision does not apply to information that: (1) was publicly known, or otherwise known to Contractor, at the time it was disclosed to Contractor by City; (2) subsequently becomes publicly known through no act or omission of Contractor; or (3) otherwise becomes known to Contractor other than through disclosure by City.

13.17 Insolvency. If Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the Contract, written notification of the bankruptcy to the Purchasing Agent and the Contract Administrator responsible for administering the Contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of City contract numbers and contracting offices for all City contracts against which final payment has not been made. This obligation remains in effect until final payment is made under this Contract.

13.18 No Third Party Beneficiaries. Except as may be specifically set forth in this Contract, none of the provisions of this Contract are intended to benefit any third party not specifically referenced herein. No party other than City and Contractor shall have the right to enforce any of the provisions of this Contract.

13.19 Actions of City in its Governmental Capacity. Nothing in this Contract shall be interpreted as limiting the rights and obligations of City in its governmental or regulatory capacity.

EXHIBIT C
CITY REQUIRED FORMS

Business Tax Certificate

Contractor Standards Pledge of Compliance

Equal Opportunity Contracting forms, including Contractors Certification of Pending Actions and Work Force Report

Living Wage Certification Form of Living Wage Exemption Form

Insurance Certificates with all endorsements

EXHIBIT D

WAGE REQUIREMENTS: SERVICE AND MAINTENANCE CONTRACTS EXECUTED ON OR AFTER JANUARY 1, 2015

By signing this Contract, Bidder certifies that he or she is aware of the wage provisions described herein and shall comply with such provisions before commencing services.

B. Living Wages. This Contract is subject to the City's Living Wage Ordinance (LWO), codified in San Diego Municipal Code Chapter 2, Article 2, Division 42. Bidder agrees to require all of its subcontractors, sublessees, and concessionaires subject to the LWO to comply with the LWO and all applicable regulations and rules.

1. Payment of Living Wages. Pursuant to San Diego Municipal Code section 22.4220(a), Bidder and its subcontractors shall ensure that all workers who perform work under this Contract are paid not less than the required minimum hourly wage rates and health benefits rate unless an exemption applies.

1.1 Copies of such living wage rates are available on the City website at <https://www.sandiego.gov/purchasing/programs/livingwage/>. Bidder and its subcontractors shall post a notice informing workers of their rights at each job site or a site frequently accessed by covered employees in a prominent and accessible place in accordance with San Diego Municipal Code section 22.4225(e).

1.2 LWO wage and health benefit rates are adjusted annually in accordance with San Diego Municipal Code section 22.4220(b) to reflect the Consumer Price Index. Service contracts, financial assistance agreements, and City facilities agreements must include this upward adjustment of wage rates to covered employees on July 1 of each year.

2. Compensated Leave. Pursuant to San Diego Municipal Code section 22.4220(c), Bidder and its subcontractors shall provide a minimum of eighty (80) hours per year of compensated leave. Part-time employees must accrue compensated leave at a rate proportional to full-time employees.

3. Uncompensated Leave. Bidder and its subcontractors must also permit workers to take a minimum of eighty (80) hours of uncompensated leave per year to be used for the illness of the worker or a member of his or her immediate family when the worker has exhausted all accrued compensated leave.

4. Enforcement and Remedies. City will take any one or more of the actions listed in San Diego Municipal Code section 22.4230 should Bidder or its subcontractors are found to be in violation of any of the provisions of the LWO.

5. Payroll Records. Bidder and its subcontractors shall submit weekly certified payroll records online via the City's web-based Labor Compliance Program. Bidder is responsible for ensuring its subcontractors submit certified payroll records to the City.

5.1 For contracts subject to both living wage and prevailing wage requirements, only one submittal will be required. Submittals by a Bidder and all subcontractors must comply with both ordinance requirements.

6. Certification of Compliance. San Diego Municipal Code section 22.4225 requires each Bidder to fill out and file a living wage certification with the Living Wage Program Manager within thirty (30) days of Award of the Contract.

7. Annual Compliance Report. Bidder and its subcontractors must file an annual report documenting compliance with the LWO pursuant to San Diego Municipal Code section 22.4225(d). Records documenting compliance must be maintained for a minimum of three (3) years after the City's final payment on the service contract or agreement.

8. Exemption from Living Wage Ordinance. Pursuant to San Diego Municipal Code section 22.4215, this Contract may be exempt from the LWO. For a determination on this exemption, Bidder must complete the Living Wage Ordinance Application for Exemption.

EXHIBIT E

LEASE

by and between

**THE CITY OF SAN DIEGO,
a California municipal corporation**

and

**San Diego Humane Society
a 501(C)(3) Corporation**

LEASE
(5480 Gaines Street, San Diego, CA 92110)

This LEASE (“**Lease**”) is entered into as of the Commencement Date (defined in **EXHIBIT A** attached to this Lease), between THE CITY OF SAN DIEGO, a California municipal corporation (“**Landlord**”), and SAN DIEGO HUMANE SOCIETY, a 501(C)(3) Corporation (“**Tenant**”).

RECITALS

- A. Landlord owns the Premises commonly known as the “Animal Services Central Shelter” located at 5480 Gaines Street, San Diego, California, APN 436-540-18, and consisting of an approximately 38,000 square-foot building with surface parking.
- B. Pursuant to San Diego Municipal Code section 44.0300 et seq., Landlord is obligated to provide animal control services to its citizens. To satisfy that obligation, Landlord and Tenant entered into that certain CONTRACT RESULTING FROM REQUEST FOR INFORMATION NUMBER 10089986-23-V dated _____, and filed in the Office of the San Diego City Clerk as Document No. RR-_____ on _____, 2023 (the “**Animal Services Contract**,” attached hereto as **EXHIBIT G**: Animal Services Contract), under which Tenant performs Landlord’s required animal control services as an independent contractor.
- C. Landlord and Tenant were parties to that previous lease concerning the Premises, filed in the Office of the San Diego City Clerk as Document Number RR-311732-2 on April 30, 2018, for the purpose of providing animal services (“**Previous Lease**”) and Tenant took possession of the Premises on July 1, 2018 (“**Possession Date**”).

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, LANDLORD AND TENANT AGREE AS FOLLOWS:

- 1. **PURPOSES.** Landlord and Tenant intend to provide for the lease of the Premises to Tenant for operation of the Premises for the Permitted Use (defined in **EXHIBIT A**) during the Term. Tenant’s compliance with all its obligations in the Animal Services Contract is a condition precedent to Landlord’s obligations in this Lease.
- 2. **DEFINITIONS.** All defined terms or words indicated by initial capitalization in this Lease and not specifically defined in the main body of this Lease are defined in **EXHIBIT A** attached to this Lease.
- 3. **LEASING AND HIRING.** Landlord leases the Premises to Tenant and Tenant hires the Premises from Landlord, subject to the Permitted Exceptions, for the Term, upon the terms and conditions of this Lease.

4. **TERM.** The term of this Lease (“**Term**”) shall: (a) commence on the Commencement Date; and (b) continue until the Scheduled Expiration Date, unless terminated sooner pursuant to the terms of this Lease.

5. **QUIET ENJOYMENT.** Subject to Landlord’s rights and remedies under this Lease, Landlord covenants that Tenant shall and may peaceably and quietly enjoy the Premises for the Term, subject to the terms and conditions of this Lease, without molestation, hindrance, or disturbance by or from Landlord. The covenant of quiet enjoyment under this Lease is limited to occupancy of the Premises and express rights under this Lease. No implied or inferred rights are intended under this covenant. This covenant also is not intended to limit Landlord’s governmental police or regulatory powers.

6. **PREMISES DELIVERY CONDITION.**

6.1 Delivery. Landlord has delivered possession of the Premises to Tenant on the Possession Date subject to the Permitted Exceptions.

6.2 Acceptance. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6.5, ON THE COMMENCEMENT DATE, TENANT ACCEPTS THE PREMISES IN THE PREMISES’ “AS IS/WHERE IS” CONDITION, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AS TO TITLE, PHYSICAL CONDITION, SOIL CONDITION, THE PRESENCE OR ABSENCE OF FILL, OCEAN OR TIDAL IMPACTS, SHORING OR BLUFF STABILITY OR SUPPORT, SUB-SURFACE SUPPORT, ZONING, LAND USE RESTRICTIONS, THE AVAILABILITY OR LOCATION OF UTILITIES OR SERVICES, THE LOCATION OF ANY PUBLIC INFRASTRUCTURE ON OR OFF OF THE PREMISES (ACTIVE, INACTIVE OR ABANDONED), THE SUITABILITY OF THE PREMISES FOR ANY PARTICULAR USE OR THE EXISTENCE OR ABSENCE OF HAZARDOUS SUBSTANCES (EXCEPTING ANY HAZARDOUS SUBSTANCE DISCHARGE BY LANDLORD) AND WITH FULL KNOWLEDGE OF THE PHYSICAL CONDITION OF THE PREMISES, THE NATURE OF LANDLORD’S INTEREST IN AND USE OF THE PREMISES, ALL LAWS APPLICABLE TO THE PREMISES, AND THE PERMITTED EXCEPTIONS. TENANT ACKNOWLEDGES, AGREES AND REPRESENTS TO LANDLORD ALL THE FOLLOWING: (A) TENANT HAS HAD AMPLE OPPORTUNITY TO INSPECT AND EVALUATE THE PREMISES AND THE FEASIBILITY OF THE USES AND ACTIVITIES TENANT IS ENTITLED TO CONDUCT ON THE PREMISES; (B) TENANT HAS RELIED AND WILL RELY ENTIRELY ON TENANT’S EXPERIENCE, EXPERTISE AND ITS OWN INSPECTION OF THE PREMISES IN THE PREMISES’ CURRENT STATE IN ENTERING INTO THIS LEASE; (C) TENANT ACCEPTS THE PREMISES IN THE PREMISES’ PRESENT CONDITION AS OF THE COMMENCEMENT DATE; AND (D) TO THE EXTENT THAT TENANT’S OWN EXPERTISE WITH RESPECT TO ANY MATTER REGARDING THE PREMISES IS INSUFFICIENT TO ENABLE TENANT TO REACH AN INFORMED CONCLUSION REGARDING SUCH MATTER, TENANT HAS ENGAGED THE SERVICES OF PERSONS QUALIFIED TO ADVISE TENANT WITH RESPECT TO SUCH MATTERS. TENANT’S SIGNATURE ON THIS LEASE CONSTITUTES TENANT’S ACKNOWLEDGMENT, AGREEMENT, REPRESENTATION AND WARRANTY TO LANDLORD THAT TENANT RECEIVED ASSURANCES ACCEPTABLE TO TENANT BY MEANS INDEPENDENT OF THE LANDLORD PARTIES OF THE TRUTH OF ALL FACTS MATERIAL TO TENANT’S ENTRY INTO THIS LEASE AND THAT TENANT IS ENTERING

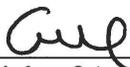
INTO THIS LEASE AS A RESULT OF ITS OWN KNOWLEDGE, INSPECTION AND INVESTIGATION OF THE PREMISES AND NOT AS A RESULT OF ANY REPRESENTATION MADE BY ANY LANDLORD PARTY RELATING TO THE CONDITION OF THE PREMISES. TENANT HAS NOT RELIED AND IS NOT RELYING ON ANY EXPRESS OR IMPLIED, ORAL OR WRITTEN REPRESENTATION OR WARRANTY MADE BY ANY LANDLORD PARTY OR ITS REPRESENTATIVE. LANDLORD SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING THE CONDITION OF THE PREMISES, AS OF THE COMMENCEMENT DATE.

6.3 Hazardous Substances. LANDLORD SHALL HAVE NO LIABILITY TO TENANT OR TO TENANT'S SUCCESSORS, ASSIGNS, OR OTHERS WHO ACQUIRE AN INTEREST IN THE PREMISES FROM OR THROUGH TENANT WITH RESPECT TO THE CURRENT OR FUTURE PRESENCE OF ANY HAZARDOUS SUBSTANCE ON THE PREMISES, EXCEPT FOR ANY HAZARDOUS SUBSTANCES PRESENT PRIOR TO THE POSSESSION DATE OR TO THE EXTENT OF A HAZARDOUS SUBSTANCE DISCHARGE BY LANDLORD. IN NO EVENT SHALL TENANT BE REQUIRED, UNDER THE TERMS OF THIS LEASE, TO REMOVE, CLEAN-UP OR OTHERWISE REMEDIATE, OR PAY ANY COSTS WITH RESPECT TO, ANY HAZARDOUS SUBSTANCES NOT BROUGHT ONTO THE PREMISES DURING THE TERM BY OR FOR TENANT.

6.4 Waivers and Releases. BY ENTERING INTO THIS LEASE, TENANT WAIVES AND RELEASES LANDLORD AND ITS REPRESENTATIVES FROM ALL CLAIMS RELATING TO THE CONDITION OF THE PREMISES AS OF THE COMMENCEMENT DATE, WHETHER KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6.5. WITH RESPECT TO THE WAIVERS AND RELEASES CONTAINED IN THIS SECTION 6.4, TENANT WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 AND ALL SIMILAR PROVISIONS AND PRINCIPLES OF LAW. CALIFORNIA CIVIL CODE SECTION 1542 PROVIDES:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

6.5 Specific Obligations Excluded. THE FOREGOING GENERAL RELEASE NOTWITHSTANDING, TENANT IS NOT RELEASING LANDLORD FROM: (1) LANDLORD'S EXPRESS COVENANTS UNDER THIS LEASE; (2) LIABILITY FOR A HAZARDOUS SUBSTANCE DISCHARGE BY LANDLORD OR (3) ANY FRAUD BY LANDLORD IN CONNECTION WITH THIS LEASE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS LEASE, LANDLORD RETAINS ALL AVAILABLE DEFENSES OR IMMUNITIES OF LANDLORD UNDER APPLICABLE LAW.



Initials of Authorized
Tenant Representative(s)

7. **RENT.**

7.1 Base Rent. Tenant shall pay the Base Rent to Landlord on or before the Commencement Date as part of the consideration to Landlord for leasing Tenant the Premises for the Permitted Use pursuant to this Lease.

7.2 Payment. Base Rent is payable to Landlord's City Treasurer in lawful money of the United States of America. Base Rent shall be sent to Landlord by first-class mail through the United States Postal Service with all postage pre-paid and addressed to:

The City of San Diego
Office of the City Treasurer
P.O. Box 129030
San Diego, California 92112-9030

or hand delivered to:

Office of the City Treasurer
Civic Center Plaza
1200 Third Avenue, First Floor
San Diego, California 92101

7.3 Required Payment Information. Tenant shall include Landlord's customer account number for Tenant with Base Rent payment. Tenant's failure to include its Landlord customer account number may result in Tenant's payment not being timely applied to Tenant's account and the application of late payment charges. Tenant assumes all risk of loss and responsibility for all fees or penalties arising from its failure to include its Landlord customer account number with Base Rent payment. The place of payment may be changed at any time by Landlord upon thirty (30) days prior Notice to Tenant. Checks only constitute payment when collected. Tenant assumes all risk of loss and responsibility for late payment charges if payments are sent by mail.

7.4 Invoicing Courtesy. Landlord may invoice Tenant for amounts payable under this Lease. However, any such invoicing is a courtesy only. Tenant shall make all payments becoming due under this Lease on or before each applicable due date, regardless of whether or not Landlord invoiced the required payment.

7.5 Additional Rent. In addition to Base Rent, Tenant shall pay to Landlord (or the appropriate Third Person, as applicable) all Additional Rent. Except where this Lease expressly provides otherwise, Tenant shall pay all Additional Rent prior to delinquency.

7.6 No Offsets. Tenant shall pay all Rent without offset, defense, claim, counterclaim, reduction, or deduction of any kind whatsoever.

7.7 No Allocation to FF&E. No Rent is allocable to any FF&E, Construction, or Tenant Improvements.

8. **ADDITIONAL PAYMENTS BY TENANT; TAXES.**

8.1 Landlord's Net Return. This Lease shall constitute an absolutely "net" lease. The Rent shall give Landlord an absolutely "net" return for the Term, free of any expenses or charges for the Premises. Tenant shall pay as Additional Rent and discharge before delinquency each item of expense, of every kind and nature whatsoever, related to or arising from the Premises, or in any manner connected with or arising from the leasing, operation, management, maintenance, repair, use, or occupancy of, or Restoration or Construction affecting, the Premises, except: (a) Landlord's administrative expenses; or (b) liability for any Hazardous Substance Discharge by Landlord.

8.2 Real Estate Taxes. Tenant shall pay and discharge all Real Estate Taxes payable or accruing for all period(s) within the Term before delinquency. Tenant shall also pay all interest and penalties any Government assesses for late payment of any Real Estate Taxes that this Lease requires Tenant to pay. Tenant shall within a reasonable time after Notice from Landlord give Landlord reasonable proof that Tenant paid all Real Estate Taxes this Lease requires Tenant to pay. Tenant acknowledges and agrees that this Lease may create a possessory interest in the Premises subject to property taxation and Real Estate Taxes include any possessory interest tax imposed as a result of this Lease.

8.3 Personal Property Taxes. Tenant shall pay and discharge all personal property taxes payable or accruing for all period(s) within the Term relating to any personal property stored at, used in the operation of, or otherwise relating to the Premises before delinquency. Tenant shall also pay all interest and penalties any Government assesses for late payment of any such personal property tax.

8.4 Documentary Transfer Tax. Tenant shall pay all documentary transfer taxes imposed by the State, the County or other Government pursuant to California Revenue and Taxation Code Sections 11911, *et seq.*, with respect to entry into this Lease, any Modification to this Lease, any extension of this Lease, any Transfer, or otherwise imposed regarding this Lease or Tenant.

8.5 Transfer of Leasehold Estate. Without limiting the generality of Tenant's obligations to pay Real Estate Taxes and subject to the limitations on Transfers in this Lease, Tenant agrees that it shall pay all increases in Real Estate Taxes resulting from a change in ownership of the Leasehold Estate.

8.6 Utilities. Tenant shall arrange and pay for all fuel, gas, light, power, water, sewage, garbage disposal, telephone, television, internet, satellite, and other similar charges or services, and the expenses of installation, maintenance, use, and service relating to all such items, for the Premises during the Term. Landlord shall have no responsibility for providing or paying for any utilities or services for the Premises during the Term. Landlord shall not be liable for any interference with or disruption of any utilities or services for the Premises, unless such interference or disruption results solely from Landlord's gross negligence or willful misconduct, except to the extent Landlord is immune under applicable law and subject to any defense to such liability available to Landlord.

8.7 Unauthorized Use Charge. Tenant shall pay Landlord one hundred percent (100%) of the gross revenue (all revenue without any deduction, credit, or set-off) from any use of the Premises that is not a Permitted Use under the terms of this Lease, regardless of any related penalties charged Tenant by competent Government authorities. The gross revenue from each use of the Premises that is not a Permitted Use under the terms of this Lease is payable to Landlord within thirty (30) days after Tenant receives any such revenue. Nothing in this Section 8.7 or Landlord's acceptance of any payment pursuant to this Section 8.7 is intended to authorize any use of the Premises that is not a Permitted Use

under the terms of this Lease, waive Tenant's Default for conducting or allowing such use, or waive any Landlord right or remedy under this Agreement.

9. USE.

9.1 Permitted Use. Tenant shall only use the Premises during the Term for the Permitted Use in compliance with Law and this Lease and no other uses.

9.2 Premises Operation. Tenant shall operate the Premises in a manner that will provide decent, safe and sanitary facilities to all users of the Premises and will comply with all the provisions of this Lease and all applicable Law. Landlord shall have no responsibility for operation of the Premises.

9.3 Competent Management. Tenant shall provide competent management of the Permitted Use to Landlord's reasonable satisfaction. For the purposes of this Section 9.3 the following terms are defined:

9.3.1 "Competent management" means and refers to management practices generally considered acceptable within Tenant's industry for the management and operation of activities substantially similar to the Permitted Use and in compliance with all applicable local, State and Federal laws, rules, regulations, and the Rules, in a fiscally responsible manner.

9.3.2 "Fiscally responsible manner" means and refers to in accordance with generally accepted accounting principles consistently applied and absent financial malfeasance.

9.4 Reserved

9.5 Operating Hours. Tenant shall operate the Premises in accordance with the regular schedule of days and hours of operation to best serve the public and as established in the Animal Services Contract ("**Operating Hours**"). Tenant shall not change the Operating Hours beyond what is allowed in the Animal Services Contract without Landlord's prior written approval. Notwithstanding the foregoing, Tenant shall have the right to use and access the Premises and the parking areas serving the Property twenty-four (24) hours per day, seven (7) days per week.

9.6 Trash and Refuse. Tenant shall, at its sole cost and expense, provide covered containers on the Premises to receive trash and refuse generated on the Premises. Refuse containers shall not be located outside the Premises. Tenant shall contract to ensure that refuse containers are emptied on a regular basis and shall prevent refuse containers from overflowing or creating unhealthful, unsightly, or unsanitary conditions. Tenant shall contract to ensure that the contents of all refuse containers on the Premises are disposed of at authorized landfills or other garbage reception areas, as provided under applicable Law at the time of refuse collection.

9.7 Tenant Improvements. No Tenant Improvements shall be installed by Tenant without Landlord's prior written approval, provided that such approval shall not be unreasonably withheld or delayed.

9.8 Limitation on Construction. Tenant shall not perform any Construction on or related to the Premises that is not Restoration or maintenance required to be performed by Tenant pursuant to this Lease or otherwise required by Law or court order.

9.9 Continuous Operation. Tenant shall continuously use and operate the entirety of the Premises during the Term for the Permitted Use and no other use. Notwithstanding the immediately preceding sentence, nothing in this Lease shall obligate Tenant to use or operate any affected part of the Premises for any purpose following a Loss (other than an Immaterial Loss), until Tenant has completed Restoration.

9.10 Landlord Use. Upon mutual advance written agreement of at least thirty (30) days, the Premises shall be available to Landlord for civic events and special programs, free of charge, except where Tenant has scheduled events or programs. After every Landlord use, the Premises shall be left in the same condition found, and Tenant shall not be required to incur any additional costs by reason of Landlord use during any such civic event or special programming.

9.11 Political Activities. The Premises shall not be used for working or campaigning for the nomination or election of any individual to public office, be it partisan or nonpartisan; provided, however, that Tenant shall not be precluded from providing a forum for open public debate by candidates such as occurs at a “candidate forum” and similar events.

9.12 Public Use. The general public shall not be wholly or permanently excluded from the Premises; provided, however, that the Tenant may provide reasonable restrictions on Premises use designed to allow Tenant to use the Premises for the Permitted Use.

9.13 Abandonment. Tenant shall not abandon, vacate, or surrender the Leasehold Estate created by this Lease or any portion of the Premises during the Term.

9.14 No Discrimination or Segregation. Tenant covenants by and for itself, himself or herself, its, his or her heirs, executors, administrators, and assigns, and all Persons claiming under or through it, him or her, that neither Tenant nor any Person claiming under or through Tenant shall establish or allow any discrimination against or segregation of any person or group of persons on account of race, color, religion, gender, gender expression, gender identity, disability, sexual orientation, marital status, national origin, ancestry, familial status, or source of income in the use of the Premises.

9.15 Noise. Tenant shall not use or permit the use of the Premises in any manner that creates or maintains any noise or sound violating San Diego Municipal Code (“SDMC”) Chapter 5, Article 9.5.

9.16 Nuisance. Tenant shall not itself and shall not allow any other Person to use the Premises for any unlawful purpose and shall not itself and shall not allow any other Person to perform, permit or suffer any act or omission upon or about the Premises that would result in a nuisance or a violation of Law.

9.17 Exterior Signs. Except for signs located inside the Improvements and not visible outside the Improvements or signs required by Law, no banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising (each, a “Sign”) may be placed on the Premises without Landlord’s prior written consent, in each instance, which consent may be given or withheld in Landlord’s sole and absolute discretion. All Signs on the Premises will be maintained by Tenant in good, clean, and operating condition during the Term. Tenant will remove all Signs from the Premises on or before the Expiration Date and repair all damage caused by installation or removal of Signs, all at Tenant’s sole cost and expense. Tenant shall comply with all Laws requiring the posting of Signs in or at the Premises. If any unauthorized Sign is found in or at the Premises, Tenant shall remove the

Sign at Tenant's sole cost and expense within twenty-four (24) hours after Notice from Landlord requesting the removal. If Tenant does not remove the Sign within such twenty-four (24) hour period, Landlord may enter the Premises and remove the Sign at Tenant's sole cost and expense. If Landlord performs work required of Tenant pursuant to this Section 9.17, Tenant shall reimburse Landlord for all costs and expenses reasonably incurred by Landlord in performing such work (including the costs of Landlord's staff time, administrative overhead, and Legal Costs), within fifteen (15) days after Notice to Tenant of such costs. Any amount reimbursable to Landlord by Tenant pursuant to this Section 9.17 that is not paid within fifteen (15) days after Notice to Tenant of such amount, shall accrue Default Interest from the date incurred until paid.

9.18 No Artist's Rights. Tenant shall not install any artwork on the Premises that may provide the creator or owner of such artwork with any right to prevent removal of such artwork from the Premises under any Law.

9.19 Availability of Tenant Employees. Tenant agrees to have one or more of its agents or employees who is/are knowledgeable regarding this Lease and the operation of the Premises, such that such Person(s) can meaningfully respond to Landlord or Landlord's staff regarding the circumstances of this Lease or the operation of the Premises, attend meetings with Landlord's staff or meetings of Landlord's City Council, when requested to do so by reasonable advance Notice to Tenant.

9.20 Compliance with Law. Tenant shall, during the Term, at Tenant's sole cost and expense, in all material respects: (a) comply with all Laws; (b) procure and comply with all Approvals required by Law; and (c) comply with all notices issued by Landlord (in its governmental regulatory capacity) or any other Government under the authority of current or future Law.

9.21 Accident Reports. Tenant shall immediately, or as soon as practicable and not more than 48 hours after Tenant becomes aware of any accident, on or around the Premises causing more than ten thousand dollars (\$10,000) in property damage or injury to any Person requiring admittance to a hospital or other medical facility for inpatient treatment, report to Landlord the names and addresses of the Person(s) involved, the circumstances, the date and hour of the accident, the names and addresses of all witnesses, and all other pertinent information.

9.22 Records. Tenant shall keep, or cause to be kept, true, accurate, and complete books, records, and accounts of all financial transactions regarding the Permitted Use conducted on the Premises. The records shall be supported by source documents, including sales slips, daily cash register tapes, purchase invoices, and other documents (which may be in electronic form), as necessary or appropriate. All retail sales or charges shall be recorded by means of cash registers or other comparable devices that display to the customer the amount of the transaction and automatically issue a receipt. Such registers or other devices shall record sales totals and other transaction numbers and sales details. Registered totals shall be read and recorded at the beginning and end of each business day. All sales and charges may be recorded by a system other than cash registers or other comparable devices, provided such system is approved by Landlord prior to its use.

9.23 Landlord Right to Inspect and Audit Records. Tenant shall keep all of its books of account, records, and supporting documentation relating to the Permitted Use throughout the Term and for five (5) years after the end of the Term. Tenant shall make such books, records, and documentation available for inspection and audit by Landlord on the Premises. Upon reasonable prior Notice,

Landlord may inspect and audit all financial transactions, books, records, or documents resulting from or relating to the Permitted Use, as Landlord deems appropriate, in its reasonable discretion, to protect or enforce Landlord's rights under this Lease.

10. MAINTENANCE.

10.1 Obligation to Maintain. Except to the extent that this Lease otherwise expressly provides or allows, Tenant shall during the Term keep and maintain the Premises in good order, condition, and repair, in accordance with the Maintenance Standard, subject to reasonable wear and tear, and any other condition this Lease that expressly does not require Tenant to repair or Restore. Tenant's obligation to maintain the Premises includes an obligation to make all repairs or modifications that the Premises, including the Improvements, may require under applicable Law, subject to any limitation under applicable Law that such repairs or modifications be "readily achievable." Landlord has no obligation to maintain or repair the Premises. Tenant expressly waives all Landlord's obligations to maintain or repair the Premises, all right to terminate this Lease pursuant to California Civil Code sections 1932 or 1933 or any similar Law, and all right to make repairs at Landlord's expense pursuant to California Civil Code sections 1941 through 1942 or any similar Law. Landlord shall at no time during the Term be required to make any improvements or repairs to the Premises, provided however Landlord shall replace as and when necessary the HVAC system at Landlord's sole cost.

10.2 Maintenance Standard. The entirety of the Premises shall be maintained by Tenant in good condition and repair and in a neat, clean and orderly condition (reasonable wear and tear and any other condition this Lease that expressly does not require Tenant to repair or Restore excepted) substantially similar to its condition on the Commencement Date, including maintenance, repair, reconstruction, and replacement of any and all asphalt, concrete, landscaping, utility systems, irrigation systems, drainage facilities or systems, grading, subsidence, retaining walls or similar support structures, foundations, signage, ornamentation, and all other improvements on or to the Premises, now existing or made in the future (excluding new public utility infrastructure installed on the Premises by Landlord after the Commencement Date and repairs addressing stormwater discharge or runoff violations that preceded the effective date of the Previous Lease.), as necessary to maintain the appearance, character and level of quality of the Premises. Tenant's obligation to maintain the Premises described in the immediately preceding sentence shall include: (a) maintaining the surfaces of the Premises in an evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability, except the naturally sandy and grassy areas of the Premises that are not to be disturbed by Tenant; (b) removing all papers, mud, sand, debris, filth, and refuse and thoroughly sweeping all areas, except the naturally sandy and grassy areas of the Premises that are not to be disturbed by Tenant, to the extent reasonably necessary to keep such areas in a clean and orderly condition; (c) removing or covering graffiti in accordance with Section 10.4; (d) placing, keeping in repair and replacing all necessary and appropriate directional signs, markers, and lines; (e) operating, keeping in repair, and replacing where necessary, such artificial lighting facilities as shall be reasonably required; (f) providing security services and taking all reasonably appropriate measures to ensure the safety of the Persons using the Premises; and (g) maintaining, mowing, weeding, trimming, and watering all landscaped areas and making such replacements of plants and other landscaping material as necessary to maintain the appearance, character and level of quality of the landscaping, all at the sole cost and expense of Tenant. Tenant's obligation to maintain the Premises described in the two immediately preceding sentences is, collectively, referred to in this Lease as the "**Maintenance Standard.**" Tenant may contract with a maintenance contractor to provide

for performance of all or part of the duties and obligations of Tenant to maintain the Premises; provided, however, that Tenant shall remain responsible and liable for the maintenance of the Premises during the Term.

10.3 Maintenance Default. At any time during the Term, if there is an occurrence of an adverse condition on any area of the Premises in contravention of the Maintenance Standard (each such occurrence being a “**Maintenance Deficiency**”), then Landlord may Notify Tenant of the Maintenance Deficiency. If Tenant fails to cure or commence and diligently pursue to cure the Maintenance Deficiency within thirty (30) calendar days following Tenant’s receipt of Notice of the Maintenance Deficiency, Landlord shall have the right to enter the Premises following five (5) days advance Notice and perform all acts necessary to cure the Maintenance Deficiency, or to take any other action at law or in equity that may then be available to Landlord to accomplish the abatement of the Maintenance Deficiency. Any sum expended by Landlord for the abatement of a Maintenance Deficiency pursuant to this Section 10.3 shall be reimbursed to Landlord by Tenant, within thirty (30) days after Notice to Tenant of the amount. Any amount expended by Landlord for the abatement of a Maintenance Deficiency pursuant to this Section 10.3 that is not reimbursed to Landlord by Tenant within thirty (30) days after Notice to Tenant of such amount, shall accrue Default Interest, until paid in full.

10.4 Graffiti. Graffiti, as defined in Government Code Section 38772, applied to any exterior surface of the Improvements shall be removed by Tenant by either painting over the evidence of such vandalism with a paint color-matched to the surface on which the paint is applied or removed with solvents, detergents, or water, as appropriate. Notwithstanding Section 10.3, if any such graffiti is not removed within seventy-two (72) hours after the time Tenant discovers or receives Notice of the graffiti, or, in the case of graffiti that cannot reasonably be removed within seventy-two (72) hours after the time Tenant discovers or receives Notice of the graffiti, whichever is earlier, if Tenant does not duly commence such cure and diligently complete such cure within a reasonable time under the circumstances, then after Notice to Tenant, Landlord shall have the right to enter the Premises and remove the graffiti. Any sum expended by Landlord for the removal of graffiti from the Premises pursuant to this Section 10.4 shall be reimbursed to Landlord by Tenant, within thirty (30) days after Notice to Tenant of such amount. Any amount expended by Landlord for removal of graffiti pursuant to this Section 10.4 not reimbursed to Landlord by Tenant within thirty (30) days after Notice to Tenant of such amount, shall accrue Default Interest until paid in full.

10.5 Asbestos Disclosure. Portions of the Improvements may contain asbestos. Landlord provided notice to Tenant of the presence of such asbestos in accordance with California Health and Safety Code Section 25915. Tenant shall disclose to all appropriate Persons the existence of asbestos on the Premises, as required by California Health and Safety Code Section 25915. If Tenant makes improvements, alterations, or repairs to the portions of the Improvements or Premises that cause the asbestos to be released, Tenant shall be responsible for any asbestos removal, management, or containment, and shall pay all associated costs. If it is determined at any time that asbestos exists within the Premises, and such asbestos was not brought to the Premises by Tenant, its agents, employees or contractors, and Landlord’s act solely caused the release of asbestos, Landlord shall cause such asbestos to be remediated at Landlord’s sole cost in compliance with applicable environmental laws. Asbestos removal, management, or containment shall be conducted in accordance with all applicable Laws and as approved by Landlord. Landlord reserves the right to inspect all improvements, alterations, or repairs to the Premises made by Tenant. Landlord may, at its discretion, station supervisory personnel at the work site to ensure that Tenant’s obligations under this Section

10.5 are fulfilled. Each Party shall coordinate with the other regarding all improvement, alteration, or repair work, and, except in the event of an emergency, the Party responsible for such work shall provide Notice to the other Party at least fifteen (15) days prior to commencing the work. Tenant shall Indemnify Landlord against all claims resulting from the release of asbestos on the Premises to the extent arising from or related to any Tenant acts or omissions.

11. **PREVAILING WAGE LAWS.** Tenant shall comply with Prevailing Wage Laws.

12. **TITLE TO IMPROVEMENTS AND PERSONAL PROPERTY.** Notwithstanding anything to the contrary in this Lease, all Improvements, Equipment, and FF&E located in, on, or at the Premises or otherwise constituting part of the Premises shall, during the Term, be owned by, and belong to, Tenant. All benefits and burdens of ownership of the foregoing, including title, depreciation, taxes, tax credits, assessments, and all other tax items and obligations shall be and remain in Tenant during the Term.

13. **PROHIBITED LIENS.**

13.1 Tenant's Covenant. Tenant shall Notify Landlord of each Prohibited Lien within twenty (20) days following Tenant's receipt of notice of such Prohibited Lien. Tenant shall, within thirty (30) days after receiving notice of a Prohibited Lien (but in any case within fifteen (15) days after Tenant receives notice of commencement of foreclosure proceedings regarding any Prohibited Lien), cause such Prohibited Lien to be paid, discharged, and cleared from title to the Leasehold Estate; provided, however, that if Tenant disputes such Prohibited Lien in good faith, Tenant may maintain an appropriate dispute of such Prohibited Lien without payment, if Tenant records a bond complying with the provisions of California Civil Code Section 3143 and causes the release of the Leasehold Estate from the disputed Prohibited Lien. Tenant shall, thereafter, prosecute such action with reasonable diligence and continuity. If Landlord receives notice of any Prohibited Lien, then Landlord shall Notify Tenant.

13.2 Protection of Landlord. NOTICE IS HEREBY GIVEN THAT LANDLORD SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES, EQUIPMENT, OR MATERIALS FURNISHED OR TO BE FURNISHED TO TENANT UPON CREDIT AND NO MECHANIC'S OR OTHER LIEN FOR ANY LABOR, SERVICES, EQUIPMENT, OR MATERIALS SHALL ATTACH TO OR AFFECT THE FEE ESTATE. NOTHING IN THIS LEASE SHALL BE DEEMED OR CONSTRUED IN ANY WAY TO CONSTITUTE LANDLORD'S CONSENT OR REQUEST, EXPRESS OR IMPLIED, BY INFERENCE OR OTHERWISE, TO ANY PROFESSIONAL, CONTRACTOR, SUBCONTRACTOR, LABORER, EQUIPMENT, OR MATERIAL SUPPLIER FOR THE PERFORMANCE OF ANY SERVICES OR LABOR OR THE FURNISHING OF ANY MATERIALS OR EQUIPMENT FOR ANY CONSTRUCTION, NOR AS GIVING TENANT ANY RIGHT, POWER OR AUTHORITY TO CONTRACT FOR, OR PERMIT THE RENDERING OF, ANY SERVICES OR LABOR, OR THE FURNISHING OF ANY EQUIPMENT OR MATERIAL THAT WOULD GIVE RISE TO THE FILING OF ANY LIEN AGAINST THE FEE ESTATE. TENANT SHALL INDEMNIFY LANDLORD AGAINST ALL LIABILITY ARISING FROM OR RELATING TO CONSTRUCTION UNDERTAKEN BY TENANT OR ANYONE CLAIMING THROUGH TENANT, AND AGAINST ALL PROHIBITED LIENS.

13.3 No Liens Against Public Property. TENANT ACKNOWLEDGES AND AGREES THAT ON THE COMMENCEMENT DATE THE FEE ESTATE IS OWNED BY LANDLORD, WHICH IS A PUBLIC ENTITY, AND THE FEE ESTATE IS NOT SUBJECT TO THE IMPOSITION OF MECHANIC'S LIENS OR ANY OTHER LIENS IN FAVOR OF PROVIDERS OF SERVICES, LABOR, EQUIPMENT, OR MATERIAL ON OR TO THE PREMISES. TENANT FURTHER AGREES TO INFORM EACH PROVIDER OF SERVICES, LABOR, EQUIPMENT, OR MATERIAL ON OR TO THE PREMISES OF SUCH FACT AND THAT LANDLORD AND THE FEE ESTATE ARE NOT RESPONSIBLE FOR PAYMENT OF ANY CLAIMS BY ANY SUCH PROVIDERS OF SERVICES, LABOR, EQUIPMENT, OR MATERIAL. LANDLORD SHALL HAVE THE RIGHT AT ALL REASONABLE TIMES TO POST AND KEEP POSTED ON THE PREMISES ANY NOTICES LANDLORD MAY DEEM NECESSARY FOR THE PROTECTION OF LANDLORD OR THE FEE ESTATE FROM MECHANIC'S LIENS OR OTHER CLAIMS. TENANT SHALL GIVE LANDLORD TEN (10) DAYS PRIOR WRITTEN NOTICE OF THE COMMENCEMENT OF ANY CONSTRUCTION OR OTHER WORK ON THE PREMISES TO ENABLE LANDLORD TO POST ANY SUCH NOTICES.

14. **INSURANCE.** To protect the Landlord Parties against Claims arising from or related to this Lease, the Premises, or the Permitted Use, Tenant shall maintain, at its sole expense, during the Term, all the insurance coverage (or its then reasonably available equivalent) described in **EXHIBIT D** attached to this Lease.

15. **LOSSES AND LOSS PROCEEDS.**

15.1 Notice. If either Party becomes aware of any Casualty or actual, contemplated, or threatened Condemnation, such Party shall Notify the other Party of such matter within a reasonable time.

15.2 Casualty. If any Casualty occurs after the Commencement Date, no Rent shall abate and Tenant shall Restore with reasonable promptness (regardless of the availability or sufficiency of Property Insurance Proceeds for such purpose); and (b) Tenant shall be solely responsible for: (i) negotiating and adjusting any Property Insurance Proceeds regarding the Casualty; and (ii) the costs of Restoration.

15.3 Substantial Condemnation. On the occurrence of a Substantial Condemnation, this Lease shall terminate in its entirety, as of the Condemnation Effective Date. Neither Landlord nor Tenant shall settle or compromise any Condemnation Award without consent from the other Party, not to be unreasonably withheld; provided, however, neither Landlord nor Tenant shall be required to obtain the consent of the other Party to settle or compromise any Condemnation Award when Landlord is the condemning authority. Any Condemnation Award shall be paid to Depository pursuant to Section 15.6. For a Substantial Condemnation, Landlord and Tenant shall allocate the Condemnation Award as follows and in the following order of priority, without duplication, until exhausted:

15.3.1 *Landlord's Costs.* For a Substantial Condemnation where Landlord is not the condemning authority, to reimburse Landlord for Landlord's actual costs and expenses, including Legal Costs, incurred in the Substantial Condemnation and determining and collecting the Condemnation Award.

15.3.2 *Tenant's Costs.* To reimburse Tenant for Tenant's actual costs and expenses, including Legal Costs, incurred in the Substantial Condemnation and determining and collecting the Condemnation Award.

15.3.3 *Tenant's Claim.* Tenant shall receive such portion of the Condemnation Award equal to the Market Value of the portion of the Leasehold Estate taken, as of the Condemnation Effective Date.

15.3.4 *Landlord's Claim.* Landlord shall receive such portion of the Condemnation Award equal to the Market Value of the portion of the Fee Estate taken, as of the Condemnation Effective Date.

15.3.5 *Landlord's Residual Claim.* Landlord shall receive the entire remaining Condemnation Award.

15.4 Insubstantial Condemnation. If an Insubstantial Condemnation occurs after the Commencement Date, then any Condemnation Award(s) shall be paid to Depository and applied first toward Restoration, in the same manner as Restoration after Casualty. Regardless of whether the Condemnation Award is adequate, Tenant shall, at its expense, Restore in compliance with this Lease. After Tenant completes and pays for Restoration, any remaining Condemnation Award shall be distributed to Landlord and Tenant in accordance with Section 15.3, as if it arose from a Substantial Condemnation affecting only the part of the Premises taken.

15.5 Temporary Condemnation. If a Temporary Condemnation occurs after the Commencement Date, then no Rent shall abate under this Lease and this Lease shall not be affected in any way, except as to use restrictions resulting from the Temporary Condemnation. To the extent that the period of a Temporary Condemnation includes any period outside the Term, the Condemnation Award from such Temporary Condemnation shall belong to Landlord.

15.6 Use of Loss Proceeds. Landlord assigns to Tenant the right to receive all Loss Proceeds, subject to the terms of this Lease. All Loss Proceeds shall be paid to Depository, to be disbursed by Depository pursuant to the terms of this Lease. If Landlord receives any Loss Proceeds, Landlord shall remit them to Depository. If a Loss is an Immaterial Loss, then Depository shall release all Loss Proceeds to Tenant, to be applied first to Restoration. If a Loss is not an Immaterial Loss, then Depository shall retain the Loss Proceeds and pay them over to Tenant, from time to time, upon the following terms, for Restoration, unless there is a Substantial Condemnation in which case the Loss Proceeds shall be paid to Landlord and Tenant as provided in this Lease. Depository shall first reimburse Landlord and Tenant from such Loss Proceeds for their actual, necessary, and proper costs and expenses in collecting such Loss Proceeds. Depository shall release Loss Proceeds to Tenant, from time to time, in proportion to the percentage of completion of the Restoration, subject to a reasonable retention (at least ten percent (10%)). When Tenant has completed and paid for Restoration, Depository shall release to Tenant, and Tenant may retain all remaining Loss Proceeds. Until Tenant has completed and paid for Restoration, Tenant shall hold all Loss Proceeds in trust for the benefit of Landlord to be used first to Restore and for no other purpose. If any Prohibited Lien is filed against the Premises, Tenant shall not be entitled to receive any further installment of Loss Proceeds, until Tenant has bonded, satisfied, or otherwise discharged such Prohibited Lien, pursuant to Section 13.1. If Loss Proceeds are insufficient to Restore and there is no Substantial Condemnation affecting the

portion of the Premises requiring Restoration, then Tenant shall nevertheless Restore at Tenant's sole cost and expense. Depository shall not release any Loss Proceeds, unless and until Tenant expends an amount equal to the insufficiency of Loss Proceeds for such Restoration. The insurance company providing the largest amount of the Loss Proceeds regarding a Casualty shall determine the amount of the insufficiency between the total amount of Loss Proceeds available for Restoration and the total costs of such Restoration. If such insurance company fails or refuses to make such determination or the Loss Proceeds arise from a Condemnation, then Landlord shall make such determination.

15.7 Continuation of Lease. Except as this Lease expressly provides, this Lease shall not terminate, be forfeited, or be affected in any other manner by any Loss. Tenant waives all right to quit or surrender the Premises because of any Loss or any resulting untenability, including the provisions of California Civil Code Sections 1932 and 1933, and agrees that the provisions of this Lease shall exclusively govern the rights and responsibilities of the Parties in the event of a Loss. Unless and until this Lease is validly terminated pursuant to its terms, Tenant's obligations under this Lease, including the obligation to pay Rent, shall continue unabated.

15.8 No Effect on Landlord Eminent Domain Authority. Nothing in this Lease is intended to nor shall be interpreted to waive, limit, or restrict any governmental authority of Landlord, including the power of eminent domain over the Premises or any other property or any land use or other police power authority over the Premises or any other property.

16. **WASTE**. Subject to the provisions of this Lease concerning Construction, Condemnation and Casualty, Tenant shall not commit or suffer to be committed any waste of the Premises, Improvements, or Equipment. Tenant agrees to keep the Premises, Improvements, and Equipment clean and clear of refuse and obstructions, to promptly dispose of all garbage, trash, and rubbish and to pay all taxes, fees, and other charges levied regarding this Lease, the Leasehold Estate, the Premises, Improvements, Equipment, or FF&E. Tenant shall immediately Notify Landlord of any waste, casualty, or damage to the Premises. If waste, casualty, or damage to the Premises arises from the Permitted Use, at Landlord's election, in Landlord's sole and absolute discretion, Tenant shall make, or cause to be made, full repair of the waste, casualty, or damage and Restore the Premises to its condition existing immediately prior to the waste, casualty, or damage. Tenant shall commence preliminary steps toward Restoration of the Premises as soon as practicable, but no later than thirty (30) days after the date the waste, casualty, or damage occurs. Tenant shall complete all required Restoration of the Premises within ninety (90) days after the date the waste, casualty, or damage occurs. Tenant must obtain all Approvals required for Restoration of all waste, casualty, or damage to the Premises.

17. **ENVIRONMENTAL CONDITIONS**. Tenant shall not cause or permit any Environmental Condition. If Tenant discovers or becomes aware of an Environmental Condition, Tenant shall Notify Landlord of such Environmental Condition as soon as possible, but in all cases within twenty-four (24) hours following Tenant discovering or becoming aware of such Environmental Condition.

17.1 Remediation. If Tenant's action or inaction results in an Environmental Condition, Tenant shall remediate the Environmental Condition for use of the Property as allowed before the occurrence of the Environmental Condition in accordance with Law, at Tenant's sole cost and expense. If Tenant knows or reasonably believes an Environmental Condition is an imminent danger to public health and

safety, Tenant shall take all action necessary to alleviate the imminent danger, at Tenant's sole cost and expense.

17.2 Removal. If Tenant stores, utilizes, generates, or otherwise brings Hazardous Substances onto the Premises in accordance with Law, Tenant shall remove all such Hazardous Substances from the Premises prior to the Expiration Date and provide Landlord with documentation demonstrating the legal removal and disposal of the Hazardous Substances. Tenant shall be responsible for all costs incurred by Landlord to remove or dispose of any Hazardous Substances not removed from the Premises by Tenant in accordance with this Section 17.2.

17.3 Reports. Tenant shall deliver a written report describing the circumstances of each Environmental Condition in reasonable detail to Landlord within three (3) days after Notifying Landlord of the Environmental Condition. Tenant shall also submit all required reports relating to the Environmental Condition to other Governments as required by Law.

17.4 Environmental Assessment. If Landlord reasonably believes that Tenant's action or inaction resulted in an Environmental Condition, Landlord may cause an environmental assessment of the Premises to be performed by a professional environmental consultant registered with the State as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be performed at Tenant's sole cost and expense. Tenant shall reimburse Landlord for all costs and expenses reasonably incurred by Landlord in performing the environmental assessment within fifteen (15) days after Notice to Tenant of the amount of such costs and expenses. Any amount reimbursable to Landlord by Tenant pursuant to this Section 17.4 that is not paid within fifteen (15) days after Notice to Tenant of such amount, shall accrue Default Interest from the date incurred until paid.

18. **ACCESS AND INSPECTION**. Notwithstanding anything to the contrary in this Lease, Landlord and its agents may enter the Premises upon no less than twenty four (24) hours' prior written notice to Tenant, without the payment of charges or fees, during regular hours of operation of the Premises, solely to: (a) ascertain whether Tenant is complying with this Lease; (b) cure Tenant's Defaults; (c) inspect the Premises; or (d) perform such tests, borings, and other analyses as Landlord determines may be necessary or appropriate relating to possible (non)compliance with Law or possible Hazardous Substance Discharge; provided, however, no invasive testing shall be conducted by Landlord without Tenant's prior written consent, not to be unreasonably withheld. In entering the Premises, Landlord and its agents shall not unreasonably interfere with Tenant's lawful business operations on the Premises and shall comply with Tenant's reasonable instructions. Landlord shall Indemnify Tenant against any Claims arising from Landlord's entry upon the Premises pursuant to this Section 18, except to the extent arising from the negligence or willful misconduct of Tenant Parties. Landlord's entry onto the Premises pursuant to this Lease shall not entitle Tenant to any rights or remedies, except as expressly provided in this Section 18, and such entry shall not constitute an actual or constructive eviction of Tenant from the Premises, nor shall it entitle Tenant to any offset, deduction, or abatement of Rent. Landlord may enter the Premises without Notice in the case of an emergency. All Landlord representatives who enter the Premises shall identify themselves at the main entrance to the Premises and shall always be accompanied by a representative of Tenant, while on the Premises. Tenant shall make a representative of Tenant available for this purpose during all regular hours of operation for the Premises, upon reasonable advance written Notice from Landlord to Tenant. If in Landlord's reasonable judgment it is

necessary, Landlord shall have the further right, from time to time, at its own cost, to retain a consultant or consultants to inspect the Premises regarding compliance by Tenant with the provisions of this Lease. Tenant acknowledges and agrees that: (i) any such Landlord inspections are for the sole purpose of protecting Landlord's rights under this Lease; (ii) are made solely for Landlord's benefit; (iii) Landlord's inspections may be superficial and general in nature; (iv) are for the purposes of informing Landlord of the conformity of the Premises with the terms and conditions of this Lease; and (v) Tenant shall not be entitled to rely on any such inspection(s) as constituting Landlord's approval, satisfaction or acceptance of any materials, workmanship, conformity of the Premises with the terms and conditions of this Lease or otherwise. Tenant agrees to make its own regular inspections of the Premises to determine the conformity of the Premises with the terms and conditions of this Lease.

19. INDEMNIFICATION.

19.1 Tenant Indemnity Obligations. In addition to Tenant's obligations to Indemnify the Landlord Parties pursuant to other provisions of this Lease, Tenant shall Indemnify the Landlord Parties against all Claims arising from: (a) Tenant's use or occupancy of the Premises or this Lease; (b) personal injury (including death) or property damage (to property of Tenant or any other Person) occurring on the Premises or adjoining real property over which Tenant has some degree of management or control or the injury or damage occurring on the adjoining real property is actually or proximately related to Tenant's action or failure to act when Tenant had a duty to act; (c) personal injury (including death) or property damage resulting from Tenant's use or occupancy of the Premises; (d) a wrongful intentional act or negligence of one or more of the Tenant Parties; (e) strict liability relating to Tenant's use or occupancy of the Premises; (f) all Applications made at Tenant's request; (g) an agreement that Tenant (or anyone claiming by or through Tenant) makes with a Third Person regarding this Lease or the Premises; (h) services, labor, material, or equipment supplied to, for, or on behalf of Tenant; (i) a workers' compensation claim by one or more employees or contractors of one or more of the Tenant Parties; (j) a Prevailing Wage Determination; (k) an Environmental Condition occurring on or after the Commencement Date. Notwithstanding anything to the contrary in this Lease, Tenant's obligations to Indemnify the Landlord Parties excludes Claims arising solely from the established active negligence or willful misconduct of a Landlord Party.

19.2 Independence of Insurance and Indemnity Obligations. Tenant's obligations to Indemnify the Landlord Parties pursuant to this Lease shall not be construed or interpreted as in any way restricting, limiting, or Modifying Tenant's insurance or other obligations under this Lease. Tenant's obligations to Indemnify the Landlord Parties pursuant to this Lease are independent of Tenant's insurance and other obligations under this Lease. Tenant's compliance with its insurance obligations and other obligations under this Lease shall not in any way restrict, limit, or Modify Tenant's obligations to Indemnify the Landlord Parties pursuant to this Lease and are independent of Tenant's obligations to Indemnify the Landlord Parties and other obligations pursuant to this Lease.

19.3 Survival of Indemnification Obligations. Tenant's obligations to Indemnify the Landlord Parties pursuant to this Lease shall survive the expiration or earlier termination of this Lease, until all actual or prospective Claims subject to the Tenant's obligations to Indemnify the Landlord Parties pursuant to this Lease are fully, finally, absolutely, and completely barred by applicable statutes of limitations.

19.4 Indemnification Procedures. Wherever this Lease requires Tenant to Indemnify the Landlord Parties:

19.4.1 *Notice*. The affected Landlord Parties shall Notify Tenant of the Claim within a reasonable time.

19.4.2 *Selection of Counsel*. Tenant shall select counsel reasonably acceptable to Landlord's City Council. Even though Tenant shall defend the Claim, the affected Landlord Parties may, at their respective options, engage separate legal counsel, at Tenant's expense, to advise them regarding the Claim and their defense if selected counsel is not acceptable to Landlord's City Council. Acceptance of counsel by Landlord's City Council will not be unreasonably withheld. The affected Landlord Parties' separate legal counsel(s) may attend all proceedings and meetings. Tenant's legal counsel shall actively consult with the Landlord Parties' separate legal counsel, subject to applicable conflict of interest and privileged communication limitations.

19.4.3 *Cooperation*. The affected Landlord Parties shall reasonably cooperate with Tenant's defense of the Landlord Parties.

19.4.4 *Settlement*. In any case where Landlord Parties is explicitly indemnified or dismissed as a party, Tenant may settle its own Claim without the prior written consent of the Landlord Parties so long as Landlord Parties are not affected by the settlement.

19.5 Immediate Duty to Defend. The duty to defend that is within Tenant's obligations to Indemnify the Landlord Parties pursuant to this Lease includes Claims for which the Landlord Parties may be liable without fault or strictly liable and applies regardless of whether the issues of negligence, liability, fault, default or other obligation on the part of Tenant or the Landlord Parties have been determined. The duty to defend applies immediately, regardless of whether the Landlord Parties have paid any sums or incurred any detriment arising out of or relating (directly or indirectly) to any Claims. It is the express intention of the Parties that the Landlord Parties be entitled to obtain summary adjudication or summary judgment regarding Tenant's duty to defend the Landlord Parties at any stage of a Claim within the scope of Tenant's obligations to Indemnify the Landlord Parties pursuant to this Lease.

19.6 Savings Provision. Notwithstanding anything in this Lease to the contrary, if the extent of Tenant's obligation to Indemnify the Landlord Parties pursuant to this Lease exceeds the indemnity obligation allowed by applicable Law, Tenant's obligation to Indemnify the Landlord Parties shall be reduced to the extent required to comply with applicable Law.

20. **LANDLORD'S TRANSFERS**. Landlord may transfer or convey the Fee Estate to any Person at any time. Landlord shall Notify Tenant of each transfer or conveyance of the Fee Estate promptly following such transfer or conveyance. Upon any transfer or conveyance of the entire Fee Estate in compliance with this Lease, the grantor shall be relieved from all liability (excluding liability arising before such transfer or conveyance) for performance of any covenants or obligations to be performed by Landlord under this Lease after the effective date of the transfer or conveyance. This Lease shall bind Landlord only while Landlord owns the Fee Estate, except as to any liabilities and obligations under this Lease arising before the effective date of transfer or conveyance of the Fee Estate.

21. **TENANT TRANSFERS.** Tenant shall not have any right to make or allow any Transfer without the prior written consent of Landlord, which may be given or withheld in Landlord's sole and absolute discretion. Consent of any Transfer shall be conditioned upon the Transferee agreeing in writing that it will assume the rights and obligations thereby assigned or subleased and that it will keep and perform all covenants, conditions, and provisions of this Lease which are applicable to the rights acquired. A consent to Transfer shall not be deemed to be a consent to any subsequent Transfer. Tenant shall pay all reasonable fees required by Landlord for processing requests for Transfer. Pursuant to City Charter section 225, Landlord must review and approve every person or entity which will have an interest in this Lease as a Transferee. Tenant acknowledges and agrees that, under the circumstances that this Lease is entered into by Landlord and Tenant and the public nature of the Premises, the restrictions in this Lease on Transfers are reasonable.

22. **SUBLEASING OR LICENSING.** Tenant may not sublease the Premises. Other than for special events lasting for one (1) day or less, Tenant may not license, authorize, or permit any use of the Premises by Third Persons that is different than the ability of members of the general public to use the Premises.

23. **LANDLORD'S RESERVATION OF RIGHTS.**

23.1 Government Action. Nothing express or implied in this Lease shall be construed or interpreted to limit, restrict, waive, or vary any required Approval from Landlord under its police power land use regulatory authority or other police powers or constitute an Approval by Landlord under its police power land use regulatory authority or other police powers. By entering into this Lease, Landlord is not obligating itself or any other Government regarding any discretionary action relating to the development, occupancy, use, or maintenance of the Premises, including re-zonings, variances, environmental clearances, any Approval required for the Permitted Use, or otherwise. Tenant shall diligently seek and use commercially reasonable efforts to obtain, at Tenant's sole cost and expense, all Approvals required from Landlord (in its governmental regulatory capacity) and other Governments necessary for the Permitted Use.

23.2 Natural Resources. Landlord reserves all right, title, and interest in all natural resources relating to the Premises, including subsurface natural gas, oil, minerals, and water, on or within the Premises.

23.3 Access Rights. Landlord reserves the right to grant and use easements or establish and use rights-of-way over, under, along, and across the Premises for utilities, thoroughfares, or public or Government access to the Premises or other real property.

24. **EVENTS OF DEFAULT; REMEDIES.**

24.1 Definition of "Event of Default". An "**Event of Default**" means the occurrence of any one or more of the following:

24.1.1 *Monetary Default.* A Monetary Default that continues for ten (10) days after Notice from Landlord, specifying in reasonable detail the amount of money not paid and the nature and calculation of each such payment.

24.1.2 *Bankruptcy or Insolvency.* Tenant ceases to pay its debts as they become due or admits in writing that it is unable to pay its debts as they become due, or becomes subject to any Bankruptcy Proceeding (except an involuntary Bankruptcy Proceeding dismissed within one hundred twenty (120) days after commencement), or a custodian or trustee is appointed to take possession of, or an attachment, execution or other judicial seizure is made with respect to, substantially all Tenant's assets or Tenant's interest in this Lease (unless such appointment, attachment, execution, or other seizure was involuntary and is contested with diligence and continuity and vacated and discharged within one hundred twenty (120) days after being made).

24.1.3 *Non-Monetary Default.* Any Non-Monetary Default, other than those specifically addressed in Section 24.1.2, occurs and Tenant does not cure such Non-Monetary Default within thirty (30) days after Notice describing the Non-Monetary Default in reasonable detail. In the case of a Non-Monetary Default that cannot with reasonable diligence be cured within thirty (30) days from the date of such Notice, Tenant shall not be in Default if it does all the following within thirty (30) days from the date of Notice of the Non-Monetary Default: (a) advise Landlord of Tenant's intention to take all reasonable steps to cure such Non-Monetary Default; (b) duly commence such cure and then diligently prosecute such cure to completion, all within a reasonable time under the circumstances.

24.2 Remedies. If an Event of Default occurs, then Landlord shall, at Landlord's option, in Landlord's sole and absolute discretion, have all the following remedies, all cumulative (so exercise of one remedy shall not preclude exercise of another remedy), in addition to such other remedies as may be available at law, or in equity, or under any other terms of this Lease:

24.2.1 *Termination of Tenant's Rights; Conditional Limitation.* Landlord may serve upon Tenant a ten (10) day Notice of termination of this Lease. Upon the expiration of such ten (10) day period, this Lease and the Term shall automatically, and without further action by any Person, terminate, expire, and come to an end, by the mere lapse of time, as fully and completely as if the expiration of such ten (10) day period were the Expiration Date. The passage of such ten (10) day period constitutes the limit beyond which Tenant's tenancy no longer exists. Tenant shall then quit and surrender the Premises to Landlord pursuant to Section 25 but remain liable as this Lease provides. It is a conditional limitation of this Lease that the Term shall terminate and expire as set forth in this Section 24.2.1. This Section 24.2.1 is intended to establish a conditional limitation and not a condition subsequent.

24.2.2 *Recovery of Damages Following Termination.* If Tenant's right to possession of the Premises is terminated by Landlord because of the occurrence of an Event of Default, this Lease shall also terminate on the date on which Tenant's right to possession of the Premises terminates. Upon any such termination of this Lease, Landlord may recover from Tenant:

(a) The worth at the time of award of the unpaid Rent which had been earned at time of termination;

(b) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided;

(c) The worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; and

(d) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

(e) The "worth at the time of award" of the amounts referred to in Sections 24.2.2(a) and 24.2.2(b) is computed by accruing Default Interest on such amounts. The "worth at the time of award" of the amount referred to in Section 24.2.2(c) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%).

24.2.3 Taking Possession. Landlord may re-enter and take possession of the Premises with process of law, whether by summary proceedings or otherwise, and remove Tenant, with or without having terminated this Lease, and without thereby being liable for damages or guilty of trespass or terminating this Lease. This Section 24.2.3 is intended to constitute an express right of re-entry in favor of Landlord. No re-entry by Landlord, whether had or taken under summary proceedings or otherwise, shall absolve or discharge Tenant from liability under this Lease. The terms "enter," "re-enter," "entry," and "re-entry," as used in this Lease, are not restricted to their technical legal meanings. Following any such entry or re-entry by Landlord, Landlord may, at any time and from time to time, relet all or any portion of the Premises. Landlord may at Landlord's election, in Landlord's sole and absolute discretion, eject all Persons or eject some and not others or eject none. Landlord shall apply all rents from any such reletting in the manner provided in Section 24.5. Any reletting may be for the remainder of the Term or for a longer or shorter period. Landlord may enter into any leases made under this Section 24.2.3 in Landlord's name and shall be entitled to all rents from the use, operation, or occupancy of the Premises. Tenant shall nevertheless pay to Landlord on the due dates specified in this Lease the equivalent of all sums required of Tenant under this Lease, plus Landlord's expenses (including Legal Costs), less the avails of any reletting or attornment. No act by or on behalf of Landlord under this Section 24.2.3 shall constitute a termination of this Lease unless Landlord gives to Tenant written Notice of termination of this Lease.

24.2.4 Suits Before Expiration Date. Landlord may sue for damages or to recover Rent, from time to time, at Landlord's election, in Landlord's sole and absolute discretion.

24.2.5 Receipt of Money. No receipt of money by Landlord from Tenant after termination of this Lease, or after the giving of any Notice of termination of this Lease, shall reinstate, continue, or extend this Lease or affect any Notice previously given to Tenant, or waive Landlord's right to enforce payment of any Rent payable or later falling due, or Landlord's right to recover possession by proper remedy, except as this Lease expressly states otherwise, it being agreed that after service of Notice of termination of this Lease or the commencement of suit or summary proceedings, or after final order or judgment for possession, Landlord may demand, receive, and collect all money due or thereafter falling due from Tenant under this Lease, without in any manner affecting such Notice, proceeding, order, suit, or judgment, all such money collected being deemed payments on

account of use and occupation of the Premises by Tenant or, at Landlord's election in Landlord's sole and absolute discretion, on account of Tenant's liability.

24.2.6 *No Waiver*. No failure by Landlord to insist upon strict performance of any covenant, agreement, term, condition or restriction of this Lease or to exercise any right or remedy upon a Default or Event of Default, and no acceptance of full or partial Rent during continuance of any such Default or Event of Default, shall waive any such Default, Event of Default, or such covenant, agreement, term, or condition. No covenant, agreement, term, or condition of this Lease to be performed or complied with by Tenant, and no Default or Event of Default, shall be Modified, except by a written instrument signed by Landlord. No waiver of any Default or Event of Default shall Modify this Lease. Each covenant, agreement, term, condition, and restriction of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent Default of such covenant, agreement, term, condition, or restriction of this Lease.

24.2.7 *Damages*. Landlord may recover from Tenant all damages Landlord incurs due to Tenant's Default, including reasonable costs of recovering possession, reletting the Premises, all other damages legally recoverable by Landlord, and reimbursement of Landlord's reasonable out of pocket costs, including Legal Costs and bank fees for dishonored checks. Landlord may recover such damages at any time after Tenant's Default, including after the Expiration Date. Notwithstanding any Law to the contrary, Landlord need not commence separate actions to enforce Tenant's obligations for each Lease Year's Rent not paid or each Lease Year's accrual of damages for Tenant's Default but may bring and prosecute a single combined action for all such Rent and damages.

24.3 Injunction of Breaches. Whether or not an Event of Default has occurred, Landlord may obtain a court order enjoining Tenant from continuing any Default or from committing any threatened Default. Tenant specifically and expressly acknowledges that damages do not constitute an adequate remedy for a Non-Monetary Default.

24.4 Restoration Funds. Upon any termination of this Lease, to the extent that Landlord or Depository then holds any Restoration Funds, such funds shall be applied as provided in this Lease, including as a payment toward any sums then payable to Landlord under this Lease.

24.5 Proceeds of Reletting. Landlord shall apply any proceeds of any reletting as follows, without duplication, but including Default Interest on all such sums:

24.5.1 *Landlord's Costs*. First, to pay to itself the cost and expense of terminating this Lease, re-entering, retaking, repossessing, repairing, performing any Construction, and the cost and expense of removing all Persons and property from the Premises, including reasonable and customary brokerage commissions and Legal Costs;

24.5.2 *Preparation for Reletting*. Second, to pay to itself the cost and expense reasonably sustained in securing any new tenants or other occupants, including all brokerage commissions, Legal Costs, and all other reasonable costs of preparing the Premises for reletting;

24.5.3 *Costs of Maintenance and Operation*. Third, to the extent that Landlord shall maintain and operate the Premises, to pay to itself the reasonable cost and expense of doing so; and

24.5.4 *Residue*. Fourth, to pay to itself any balance remaining of Tenant's liability to Landlord.

24.6 Tenant's Late Payments; Administrative Charges. If Tenant fails to make any payment to Landlord required under this Lease within ten (10) days after such payment is first due and payable, then in addition to any other remedies of Landlord, and without reducing or adversely affecting any of Landlord's other rights or remedies, Tenant shall pay Default Interest to Landlord on such late payment, beginning on the date such payment was first due and payable and continuing until the date when Tenant makes such payment in full. In addition, and without limiting any other rights or remedies of Landlord, Tenant shall pay to Landlord, as Additional Rent, an administrative charge equal to five percent (5%) of each payment that Tenant fails to pay within ten (10) days after such payment is first due and payable. Nothing in this Section 24.6 is intended to affect or change Landlord's rights or remedies regarding a Default or Event of Default. This Section 24.6 only establishes Landlord's right to charge Default Interest and an administrative charge on late payments. Such administrative charge is intended to compensate Landlord for the inconvenience and staff time incurred by Landlord to handle the late or missed payment, shall not be deemed a penalty or compensation for use of funds, and shall not be credited against any other obligations of Tenant under this Lease.

24.7 Landlord's Right to Cure. If Tenant, at any time, fails to make any payment or take any action this Lease requires, then Landlord, after five (5) Business Days' Notice to Tenant, or in an emergency with such notice (if any) as is reasonably practicable under the circumstances, and without waiving or releasing Tenant from any obligation or Default and without waiving Landlord's right to take such action as this Lease may permit following such Default, may (but need not) make such payment or take such action. Tenant shall reimburse Landlord, as Additional Rent, for an amount equal to: (a) all reasonable sums paid, and reasonable costs and expenses (including Legal Costs) incurred, by Landlord in exercising its cure rights under this Section 24.7; and (b) Default Interest on the amounts described in clause "(a)" of this Section 24.7.

24.8 Accord and Satisfaction; Partial Payments. No payment by Tenant or receipt by Landlord of a lesser amount than the amount owed under this Lease shall be deemed to be other than a part payment on account by Tenant. Any endorsement or statement on any check or letter accompanying any check or payment shall not be deemed an accord or satisfaction. Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of the amount due to Landlord or pursue any other remedy for a Default or Event of Default.

24.9 Survival. No termination of this Lease and no taking possession of or reletting the Premises shall relieve Landlord or Tenant of their respective liabilities and obligations under this Lease that survive such expiration, termination, repossession, or reletting.

24.10 Multiple Suits. Landlord may sue to recover damages, or amount(s) equal to any installment(s) of Rent payable by Tenant, from time to time, at Landlord's election in Landlord's sole and absolute discretion. Nothing in this Lease requires Landlord to await the Scheduled Expiration Date or any other Expiration Date to bring suit to remedy or recover damages arising from an Event of Default.

24.11 Landlord's Notice and Opportunity to Cure. Notwithstanding anything to the contrary in this Lease, before exercising any right under this Lease or applicable Law because of a Landlord

Default, to claim a partial or total eviction (actual or constructive) because of a Landlord Default, or to exercise any other right or remedy against Landlord, Tenant shall give Landlord Notice of the Landlord Default. Landlord shall then have thirty (30) days following the effective date of Notice of such Landlord Default to cure such Landlord Default before Tenant may exercise any such right or remedy against Landlord. If Landlord cannot with due diligence cure any Landlord Default within thirty (30) days following the effective date of Notice of such Landlord Default, such cure period shall be extended for such further period as Landlord shall reasonably require, provided that Landlord shall: (a) within thirty (30) days following the effective date of Notice to Landlord of the Landlord Default, advise Tenant of Landlord's intention to take all reasonable steps to cure such Landlord Default; and (b) within a reasonable time under the circumstances, commence such cure and diligently prosecute such cure to completion. Tenant acknowledges the independence of the covenants in this Lease and waives any and every right to terminate this Lease because of any Landlord Default.

25. END OF TERM.

25.1 Surrender. Upon any Expiration Date or earlier termination: (a) all Improvements(s) and Equipment shall become Landlord's property; (b) Tenant shall deliver to Landlord possession of the Premises, in the condition this Lease requires, subject to any Loss this Lease does not require Tenant to Restore; (c) Tenant shall surrender to Landlord all right, title, or interest in and to the Premises and deliver such evidence and confirmation of such surrender as Landlord reasonably requires; (d) Tenant shall deliver the Premises free and clear of all liens, except liens that Landlord directly caused; (e) Tenant shall assign to Landlord, without recourse, and give Landlord copies or originals of, all assignable warranties then in effect for the Premises; (f) the Parties shall cooperate to achieve an orderly transition of operations from Tenant to Landlord (to the extent reasonably possible), without interruption, including delivery of such books and records (or copies thereof), as Landlord reasonably requires; and (g) the Parties shall adjust for expenses and income of the Premises and any prepaid Rent and shall make such payments as shall be appropriate on account of such adjustment, in the same manner as for a sale of the Premises (but any sums otherwise payable to Tenant shall first be applied to cure any Default), provided, however, that Tenant shall be responsible for applying to applicable taxing entities for a refund of any Real Estate Taxes paid by Tenant for periods after the end of the Term (if any) and Landlord shall not be required to pay or credit Tenant for any such amounts. Notwithstanding anything to the contrary in this Section 25.1, Tenant may remove from the Premises any FF&E owned by Tenant, but Tenant must do so, if at all, prior to the Expiration Date. Tenant shall immediately repair all damage to the Premises from removal of FF&E. Tenant's FF&E not removed before the Expiration Date shall be deemed abandoned. If Tenant fails to surrender the Premises to Landlord on the Expiration Date (or earlier termination) as required by this Section 25, Landlord shall deliver to Tenant written notice of the work needed, and Tenant shall arrange for the necessary work to be completed, subject to and in accordance with the terms of this Lease.

25.2 Quitclaim of Tenant's Interests. Following any Expiration Date, Tenant shall execute, acknowledge, and deliver to Landlord a quitclaim deed acceptable to Landlord conveying all of Tenant's right, title, and interest in and to the Premises to Landlord, within thirty (30) days following Notice requesting such quitclaim deed (which Notice may be given thirty (30) days before any Expiration Date or later). If Tenant fails or refuses to deliver such quitclaim deed to Landlord within the provided thirty (30) day period, Tenant appoints Landlord as its attorney-in-fact to execute and record such a quitclaim deed, which appointment is irrevocable and coupled with an interest.

26. **NOTICES.** All Notices submitted by a Party to the other Party pursuant to or as required by this Lease shall be sent by messenger for immediate personal delivery, nationally recognized overnight (one Business Day) delivery service (i.e., United Parcel Service, Federal Express, etc.), registered or certified first-class mail, postage prepaid, return receipt requested through the United States Postal Service, to the address of the recipient Party designated in **EXHIBIT C** attached to this Lease. A copy of all Notices sent to either Party under the terms of this Lease shall also be sent to the other Party via electronic mail at the e-email address(es) provided herein. Notices may be sent in the same manner to such other addresses as either Party may from time to time designate by Notice in accordance with this Section 26. Notice shall be considered received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day the Notice is sent by messenger for immediate personal delivery, one (1) Business Day after delivery to a nationally recognized overnight delivery service, or three (3) days after the Notice is deposited with the United States Postal Service in accordance with this Section 26. Any attorney representing a Party may give any Notice on behalf of such Party. The Notice addresses for the Parties, as of the Effective Date, are set forth in **EXHIBIT C**.

27. **REPLACEMENT OF STATUTORY NOTICE REQUIREMENTS.** When this Lease requires service of a Notice, that Notice shall replace, rather than supplement, any equivalent or similar Notice required by Law, including any Notices required by Code of Civil Procedure Section 1161 or any similar or successor Law. When a Law requires service of a Notice in a particular manner, service of that Notice (or a similar Notice required by this Lease) in the manner required by Section 26 shall replace and satisfy the service-of-notice procedures of such Law, including those required by Code of Civil Procedure Section 1162 or any similar or successor Law.

28. **NO BROKER.** Each Party: (a) represents and warrants to the other Party that it did not engage or deal with any broker or finder regarding this Lease and no Person is entitled to any commission or finder's fee regarding this Lease pursuant to any agreement or arrangement made by such Party; and (b) shall Indemnify the other Party against any breach of the representations or warranties in clause "(a)" of this Section 28.

29. **ESTOPPEL CERTIFICATES.** Each Party to this Lease ("**Requesting Party**") may require the other Party ("**Certifying Party**") to sign and deliver to the Requesting Party (or directly to a Third Person designated by the Requesting Party) up to four (4) original counterparts of an Estoppel Certificate. The Certifying Party shall sign and deliver such Estoppel Certificate, within fifteen (15) business days after request, even if the Requesting Party is in Default or Landlord Default. A Requesting Party shall pay all the expenses (including Legal Costs) of the Certifying Party incurred in providing an Estoppel Certificate.

30. **HOLDOVER.** If Tenant continues to occupy the Premises after the Expiration Date, such occupancy shall not constitute a renewal or extension of this Lease pursuant to Civil Code Section 1945 or otherwise, nor give Tenant any right in or to the Premises after the Expiration Date. Tenant may not occupy the Premises after the Expiration Date without Landlord's consent, which may be given or withheld in Landlord's sole and absolute discretion. Tenant's occupancy of the Premises after the Expiration Date with Landlord's consent shall be a month-to-month tenancy and all other terms and conditions of this Agreement shall continue in full force and effect, except that Landlord may then demand and receive Base Rent from Tenant equal to the then fair market Base Rent for the Premises' highest and best use, all as determined by Landlord. Landlord's acceptance of any

Rent from Tenant after the Expiration Date shall not constitute a renewal or extension of this Lease pursuant to Civil Code Section 1945 or otherwise.

31. MISCELLANEOUS.

31.1 Prior Agreement Termination. As of the Commencement Date, all leases, right-of-entry permits, or other agreements between Landlord and Tenant concerning Tenant's entry upon, use, occupancy, or operation of the Premises, other than this Lease, are terminated, except as to any payments, rights, or remedies accrued to either Party under those agreements prior to the Commencement Date.

31.2 Compliance with Landlord Standard Contract Provisions. Tenant shall comply with all Landlord standard contract provisions set forth in **EXHIBIT E** attached to this Lease.

31.3 Third-Party Beneficiaries. There are no third-party beneficiaries of this Lease. Nothing in this Lease is intended nor shall be deemed to confer upon any Person, other than Landlord and Tenant, any right to enforce this Lease.

31.4 Modification. Each Modification of this Lease must be in a writing signed by both Parties.

31.5 Successors and Assigns. This Lease shall bind and benefit Landlord and Tenant and their respective permitted successors and assigns, but this Section 31.5 shall not limit, supersede, or Modify any Transfer restrictions in this Lease.

31.6 Costs and Expenses; Legal Costs. In the event of any litigation or dispute between the Parties, or claim made by either Party against the other, arising from this Lease or the landlord-tenant relationship under this Lease, or Landlord's enforcement of this Lease following a Default, or to enforce or interpret this Lease or seek declaratory or injunctive relief in connection with this Lease, or to exercise any right or remedy under or arising from this Lease, or to regain or attempt to regain possession of the Premises or terminate this Lease, or in any Bankruptcy Proceeding affecting the other Party to this Lease, the prevailing Party shall be entitled to reimbursement of its Legal Costs, with Default Interest, and all other reasonable costs and expenses incurred in enforcing this Lease or curing the other Party's Default or Landlord Default.

31.7 No Waiver by Silence. All waivers of the provisions of this Lease must be in writing and signed by the Party making the waiver. Failure of either Party to complain of any act or omission of the other Party shall not be deemed a waiver by the non-complaining Party of any of its rights under this Lease. No waiver by either Party, at any time, express or implied, of any Default, Event of Default, or Landlord Default shall waive such Default, Event of Default, or Landlord Default at any other time or any other Default, Event of Default, or Landlord Default.

31.8 Performance Under Protest. If a dispute arises about performance of any obligation under this Lease, the Party against which such obligation is asserted shall have the right to perform the obligation under protest, which shall not be regarded as voluntary performance. A Party that has performed under protest may institute appropriate proceedings to recover any amount paid or the reasonable cost of otherwise complying with any such obligation, with interest at the Default Rate.

31.9 Survival. All rights and obligations that by their nature are to be performed after any expiration or termination of this Lease shall survive any such expiration or termination.

31.10 Accessibility Assessment. Landlord discloses to Tenant that the Premises have not been inspected by a Certified Access Specialist (CASp). Landlord further states:

A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

31.11 Unavoidable Delay.

31.11.1 *Notice*. Performance by either Party under this Lease shall not be in Default or Landlord Default where any such Default or Landlord Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party: (a) within twenty (20) days after such Party knows of the Unavoidable Delay; and (b) within twenty (20) days after the Unavoidable Delay ceases to exist. To be effective, any Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The extension of time for an Unavoidable Delay when Notice is timely given under this Section 31.11.1, shall commence on the date the condition causing the Unavoidable Delay commences. If Notice is not timely given under this Section 31.11.1, then the extension of time for the Unavoidable Delay shall commence on the effective date of the Notice of the Unavoidable Delay under this Section 31.11.1 and shall continue until the end of the condition causing the Unavoidable Delay. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise its reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time.

31.11.2 *Assumption of Economic Risks*. EACH PARTY EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, OF EITHER PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMAND OR CHANGES IN THE ECONOMIC ASSUMPTIONS OF EITHER PARTY THAT MAY HAVE PROVIDED A BASIS FOR ENTERING INTO THIS LEASE SHALL NOT OPERATE TO EXCUSE OR DELAY THE PERFORMANCE OF EVERY ONE OF EACH PARTY'S OBLIGATIONS AND COVENANTS ARISING UNDER THIS LEASE. ANYTHING IN THIS LEASE TO THE CONTRARY NOTWITHSTANDING, THE PARTIES EXPRESSLY ASSUME THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES OR MARKET DEMAND OR CONDITIONS AND WAIVE, TO THE GREATEST EXTENT ALLOWED BY LAW, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, CHANGED ECONOMIC CIRCUMSTANCES, FRUSTRATION OF PURPOSE, OR SIMILAR THEORIES.

THE PARTIES AGREE THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF THE PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EVERY ONE OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS LEASE. THE PARTIES EXPRESSLY ASSUME THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF THE COMMENCEMENT DATE.

INITIALS OF AUTHORIZED
LANDLORD REPRESENTATIVE(S)



INITIALS OF AUTHORIZED
TENANT REPRESENTATIVE(S)

31.12 Captions. The captions of this Lease are for convenience of reference only and, in no way, affect this Lease.

31.13 Counterparts. This Lease may be signed in multiple counterpart originals, each of which shall be deemed to be an original, but all of which together shall constitute one and the same document.

31.14 Warranty Against Payment of Consideration for Lease. Tenant represents and warrants that: (a) Tenant has not employed or retained any Person to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees of Tenant; and (b) no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by Tenant or any of its agents, employees or representatives to any elected or appointed official or employee of Landlord in an attempt to secure this Lease or favorable terms or conditions for this Lease. Breach of the representations or warranties of this Section 31.14 shall entitle Landlord to terminate this Lease, in Landlord's sole and absolute discretion, by Notice to Tenant. Upon any such termination of this Lease, Tenant shall immediately refund any payments made to or on behalf of Tenant by Landlord pursuant to this Lease or otherwise related to the Premises, prior to the date of any such termination.

31.15 Relationship of Parties. The Parties each intend and agree that Landlord and Tenant are independent contracting entities and do not intend by this Lease to create any partnership, joint venture, or similar business arrangement, relationship, or association between them.

31.16 Survival of Lease. All the provisions of this Lease shall be applicable to any dispute between the Parties arising from this Lease, whether prior to or following expiration or termination of this Lease, until any such dispute is finally and completely resolved between the Parties, either by written settlement, entry of a non-appealable judgment or expiration of all applicable statutory limitations periods and all terms and conditions of this Lease relating to dispute resolution or remedies shall survive any expiration or termination of this Lease.

31.17 Non-liability of Officials, Employees and Agents. No Landlord Party (other than Landlord itself) shall be personally liable to Tenant, or any successor in interest of Tenant, in the event of any Landlord Default or breach by Landlord under this Lease or for any amount that may be or become due to Tenant or any successor in interest of Tenant, on any obligations under the terms or conditions of this Lease.

31.18 No Other Representations or Warranties. Except as expressly set forth in this Lease, no Party makes any representation or warranty material to this Lease to any other Party.

31.19 Tax Consequences. Tenant acknowledges and agrees that it shall bear all responsibilities, liabilities, costs, and expenses connected in any way with any tax consequences experienced by Tenant related to this Lease.

31.20 Time Declared to be of the Essence. As to the performance of each obligation under this Lease of which time is a component, the performance of such obligation within the time specified is of the essence.

31.21 Calculation of Time Periods. Unless otherwise specified, all references to time periods in this Lease measured in days shall be to consecutive calendar days, all references to time periods in this Lease measured in months shall be to consecutive calendar months and all references to time periods in this Lease measured in Lease Years shall be to consecutive Lease Years. All references to time periods in this Lease measured in Business Days shall be to consecutive Business Days.

31.22 Entire Agreement. This Lease and the documents referenced in this Lease contain all the terms, covenants, and conditions between the Parties regarding the Premises. The Parties have no other understandings or agreements, oral or written, about the Premises or Tenant's use or occupancy of, or any interest of Tenant in, the Premises.

31.23 Governing Law. This Lease, its interpretation and performance, the relationship between the Parties, and any disputes arising from or relating to any of the foregoing, shall be governed, construed, interpreted, and regulated under the laws of the State, without regard to conflict of laws statutes or principles.

31.24 Partial Invalidity. If any term or provision of this Lease or its application to any Person or circumstance shall to any extent be invalid or unenforceable, then the remainder of this Lease, or the application of such term or provision to Persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected by such invalidity. All remaining provisions of this Lease shall be valid and be enforced to the fullest extent Law allows.

31.25 Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party drafted any part of this Lease. The Parties both participated substantially in negotiation, drafting, and revision of this Lease, with advice from legal counsel and other advisers of their own selection. A term defined in the singular in this Lease may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which also govern all other language in this Lease. The words "include" and "including" shall be construed to be followed by the words: "without limitation." Each collective noun used in this Lease shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Lease, refers to such document as Modified from time to time (except, at Landlord's option, any Modification that violates this Lease), and includes all exhibits, schedules, and riders to such document. The word "or" includes the word "and," except where the context clearly requires otherwise. Every reference to a law, statute, regulation, order, form, or similar governmental requirement refers to each as amended, modified, renumbered, superseded, or succeeded, from time to time.

31.26 Survival of Conditions to Approval. Whenever this Lease requires certain conditions to be satisfied prior to or concurrent with the issuance of any approval by Landlord or Landlord reasonably imposes any conditions to any Landlord approval under this Lease, or where this Lease allows Tenant to take any action without Landlord's prior approval or consent, subject to the satisfaction of certain conditions, the intent and requirement of this Lease is that Tenant shall cause all such conditions to remain satisfied at all times following the granting of such consent or approval by Landlord or the taking of an action by Tenant without Landlord's consent or approval, for the duration of the matter or activity that is the subject to such conditions.

31.27 Reasonableness. Wherever this Lease states that a Party shall not unreasonably withhold any consent or approval or a matter is reasonably acceptable to a Party or some other similar phrase, then: (a) such consent or approval shall not be unreasonably delayed or conditioned; (b) no withholding of consent or approval shall be deemed reasonable, unless withheld by Notice specifying reasonable grounds, in reasonable detail, for such withholding, and (if reasonably possible) indicating specific reasonable changes in the proposal under consideration that would make it acceptable (if any); and (c) if a Party grants its consent or approval (or fails to object) to any matter, this shall not waive its rights to require such consent or approval for any further or similar matter.

31.28 Electronic Signatures. The Parties agree: (a) to deliver and accept signatures on or pursuant to this Lease by e-mail or electronic means (including digital signatures); and (b) that signatures delivered by e-mail or electronic means (including digital signatures) shall be binding as originals upon the Party so signing and delivering.

31.29 Exhibits. All the Exhibits attached to this Lease are incorporated into this Lease by reference and described as follows:

- | | |
|------------------|--|
| EXHIBIT A | Definitions. |
| EXHIBIT B | Premises Description. |
| EXHIBIT C | Notice Addresses. |
| EXHIBIT D | Insurance Requirements. |
| EXHIBIT E | Landlord Standard Contract Provisions. |
| EXHIBIT F | Prevailing Wage Requirements. |
| EXHIBIT G | Animal Services Contract. |

[Remainder of page intentionally blank. Signatures appear on the immediately following page.]

**SIGNATURE PAGE
TO
LEASE**

by and between

THE CITY OF SAN DIEGO,

and

**SAN DIEGO HUMANE SOCIETY
(5480 Gaines Street, San Diego, CA 92110)**

Landlord and Tenant sign and enter into this Lease by and through the signatures of their respective authorized representative(s) set forth below, as of the Commencement Date.

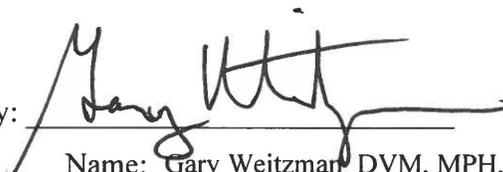
LANDLORD:

The City of San Diego,
a California municipal corporation

By: _____
Penny Maus, Director
Department of Real Estate and
Airport Management

TENANT:

San Diego Humane Society,
a 503 (C) 3 corporation

By:  _____
Name: Gary Weitzman DVM, MPH, CAWA
Title: President & CEO

Approved as to form on
_____.

MARA W. ELLIOTT,
City Attorney

By: _____
Marco A. Verdugo
Deputy City Attorney

**EXHIBIT A
TO
LEASE
(5480 Gaines Street, San Diego, CA 92110)**

DEFINITIONS

1. Additional Rent. All sums this Lease requires Tenant to pay Landlord or any other Person, whether or not expressly called Additional Rent, except Base Rent.
2. Affiliate. Any other Person, directly or indirectly, Controlling or Controlled by or under common Control with the specified Person. Affiliated shall have the correlative meaning.
3. Application. Each application, document, or submission (or amendment of any of the foregoing) necessary or appropriate for Tenant to pursue or obtain an Approval for Construction this Lease allows or an Approval to use or operate the Premises in accordance with this Lease.
4. Approval. All licenses, permits (including building, grading, demolition, alteration, use, and special permits), approvals, consents, certificates (including certificate(s) of occupancy), rulings, variances, authorizations, or amendments to any of the foregoing as shall be necessary or appropriate under any Law to commence, perform, or complete any Construction, or for the use, occupancy, maintenance, or operation of the Premises in accordance with this Lease.
5. Bankruptcy Proceeding. Any proceeding, whether voluntary or involuntary, under Title 11 United States Code or any other or successor state or Federal statute relating to assignment for the benefit of creditors, appointment of a receiver or trustee, bankruptcy, composition, insolvency, moratorium, reorganization, or similar matters.
6. Base Rent. A one-time payment in the amount of \$100 for the entire Term.
7. Business Day. Monday through Friday, except legal holidays when Federal offices are closed in Washington, D.C., or State offices are closed in Sacramento, California.
8. Casualty. Any damage or destruction of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, affecting the Premises, whether or not insured or insurable.
9. Certifying Party. Defined in Section 29.
10. City Attorney. City Attorney of the City of San Diego, California.
11. Claim. Any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity or otherwise), charge, award, assessment, fine, or penalty of any kind (including consultant and expert fees and expenses and investigation costs of whatever kind or nature and, if an Indemnitor improperly fails to provide a defense for an Indemnitee or provides a defense under a reservation of rights, then Legal Costs of legal counsel retained by the Indemnitee), or any judgment.

12. Commencement Date. July 1st, 2023.
13. Condemnation. All the following: (a) any temporary or permanent taking of (or of the right to use or occupy) all or any part of the Premises by condemnation, eminent domain, or any similar proceeding; or (b) Government or public utility action not resulting in an actual transfer of an interest in (or of the right to use or occupy) all or any part of the Premises, but creating a right to compensation, such as a change in grade of any street upon which the Premises abut.
14. Condemnation Award. All award(s) paid or payable (whether or not in a separate award) to a Party after the Commencement Date, because of or as compensation for a Condemnation, including: (a) an award made for improvements that are the subject of the Condemnation; (b) the full amount paid or payable by the condemning authority for the estate or interest that is the subject of the Condemnation, as determined in the Condemnation proceeding; (c) all interest on such award; and (d) all other sums payable on account of such Condemnation.
15. Condemnation Effective Date. For any Condemnation, the earlier of: (a) the first date when the condemning authority acquires title to or possession of any part of the Premises that is the subject of the Condemnation; or (b) the commencement of Government action creating a physical right to compensation, but not resulting in an actual transfer of an interest in or right to use or occupy the Premises.
16. Construction. Any alteration, construction, demolition, excavation, fill, grading, development, expansion, reconstruction, removal, replacement, rehabilitation, redevelopment, repair, Restoration, or other work affecting the Premises, including new construction.
17. Control. Regarding a specified Person, possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person or bind such Person, whether by ownership of Equity Interests, by contract, or otherwise.
18. Controlling and Controlled. Exercising or having Control.
19. County. The County of San Diego, California.
20. Default. Any Monetary Default or Non-Monetary Default.
21. Default Interest. Interest at an annual rate equal to the lesser of: (a) eight percent (8%) per year; or (b) the highest rate of interest, if any, that Law allows under the circumstances.
22. Depository. A Federal or State chartered bank.
23. DREAM Director. The then current director of Landlord's Department of Real Estate and Airport Management or such Person's successor in function.
24. Environmental Condition. Any of the following events relating to the Premises: (a) an actual or alleged violation of any Environmental Law; or (b) a Hazardous Substance Discharge.
25. Environmental Law. Each Law regarding the following at, in, under, above, or upon the Premises: (a) air, environmental, ground water, or soil conditions; or (b) clean-up, remediation,

control, disposal, generation, storage, release, discharge, transportation, use of, or liability, or standards of conduct concerning, Hazardous Substances.

26. Equipment. All fixtures incorporated in the Premises by either Landlord or Tenant, and used, useful, or necessary to operate the Premises.

27. Equity Interest. All or any part of any equity or ownership interest(s) (whether stock, partnership interest, beneficial interest in a trust, membership interest, or other interest of an ownership or equity nature) in any Person.

28. Estoppel Certificate. A written certification of each of the following:

28.1 *Parties Interests*. The nature of the Certifying Party's interest in the Premises and all Transfers of which the Certifying Party is aware, except as otherwise disclosed in the public record;

28.2 *Existing Lease*. This Lease is unmodified and in full force and effect, or, if there have been modifications, that this Lease is in full force and effect, as modified, in the manner specified in the certification;

28.3 *Defaults*. To the Certifying Party's knowledge (meaning to the current, actual knowledge of the Mayor, in the case of Landlord, or the Tenant Official, in the case of Tenant, each without any duty of inquiry or investigation), there are no uncured breaches, defaults or failures to perform any covenant or provision of this Lease on the part of the Requesting Party or the Certifying Party or specifying any such breaches, defaults or failures claimed to exist.

28.4 *Prepaid Rent*. The dates to which any amounts of Rent have been paid by or to the Requesting Party in advance;

28.5 *Dates*. The Commencement Date and the Scheduled Expiration Date;

28.6 *Other Reasonable Matters*. Any other matters reasonably requested by the Requesting Party.

29. Event of Default. Defined in Section 24.1.

30. Expiration Date. The date when this Lease terminates or expires in accordance with its terms, whether on the Scheduled Expiration Date, by Landlord's exercise of remedies for an Event of Default, or otherwise.

31. Federal. Relating or pursuant to the authority of the federal government of the United States of America.

32. Fee Estate. Landlord's fee estate in the Premises, including Landlord's reversionary interest in the Premises after the Expiration Date.

33. FF&E. All movable furniture, equipment, and personal property of Tenant or anyone claiming through Tenant (excluding Equipment) used in operating the Premises for the Permitted Use, including retail inventory, that may be removed, without material damage to the Premises,

and without adversely affecting: (a) the structural integrity of the Premises; (b) any electrical, plumbing, mechanical, or other system in the Premises; (c) the present or future operation of any such system; or (d) the present or future provision of any utility service to the Premises. FF&E includes items such as furniture, telephone, telecommunications, and facsimile transmission equipment, point of sale equipment, televisions, radios, network racks, computer systems, and peripherals.

34. Government. Every governmental agency, authority, bureau, department, quasi-governmental body, utility, utility service provider, or other entity or instrumentality having or claiming jurisdiction over the Premises (or any activity this Lease allows), including the Federal government of the United States of America, the State and County governments and their subdivisions and municipalities, including Landlord (in Landlord's governmental capacity), any planning commission, board of standards and appeals, building department, zoning board of appeals, design review board or committee, the California Coastal Commission, and all other applicable governmental agencies, authorities, and subdivisions thereof having or claiming jurisdiction over the Premises or any activities on or at the Premises.

35. Hazardous Substance. Any flammable substance, explosive, radioactive material, asbestos, asbestos-containing material, polychlorinated biphenyl, chemical known to cause cancer or reproductive toxicity, pollutant, contaminant, hazardous waste, medical waste, toxic substance or related material, petroleum, petroleum product, or any "hazardous" or "toxic" material, substance or waste defined by those or similar terms or regulated as such under any Law, any matter, waste or substance subject to any Law regulating, relating to or imposing obligations, liability, or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property, or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor, or form of energy from whatever source; provided, however, Hazardous Substance shall not include any household chemical products in normal quantities used for operation and maintenance of the Premises in compliance with Law.

36. Hazardous Substance Discharge. Any deposit, discharge, generation, release, or spill of a Hazardous Substance occurring at, on, under, into or from the Premises, or relating to transportation of any Hazardous Substance to or from the Premises (whether on its own or contained in other material or property), or arising at any time from the use, occupancy, or operation of the Premises or any activities conducted at, on, under or in the Premises whether or not caused by a Party or occurring before or after the Commencement Date.

37. Immaterial Loss. A Casualty or Condemnation resulting in a Loss of ten thousand dollars (\$10,000) or less.

38. Improvements. All improvements located on the Premises from time to time.

39. Indemnify. Where this Lease states that any Indemnitor shall "Indemnify" any Indemnitee from, against, or for a particular Claim, the Indemnitor shall indemnify the Indemnitee and defend and hold the Indemnitee harmless from and against such Claim (alleged or otherwise), including all loss, cost, claims, liability, penalties, judgments, damages, and other injury, detriment, or expense (including Legal Costs, interest and penalties) the Indemnitee suffers or incurs: (a) from, as a result of, or on account of the Claim; or (b) in enforcing the Indemnitor's indemnity obligation

regarding the Claim. “Indemnified,” “Indemnification,” or similar terms shall have the correlative meanings.

40. Indemnitee. Any Person entitled to be Indemnified under this Lease.

41. Indemnitor. A Person agreeing to Indemnify any other Person pursuant to this Lease.

42. Insubstantial Condemnation. Any Condemnation, except a Substantial Condemnation, a Temporary Condemnation, or an Immaterial Loss.

43. Landlord. Initially, means the Landlord named in the initial paragraph of this Lease. After every transfer or conveyance of the Fee Estate, “Landlord” means only the owner(s) of the Fee Estate at the time in question. If any former Landlord no longer has any interest in the Fee Estate or a transfer or conveyance of the Fee Estate occurs (in all cases in compliance with this Lease), the transferor shall be entirely freed and relieved of all obligations of Landlord under this Lease accruing from and after the date of such transfer or conveyance.

44. Landlord Default. The occurrence of any of the following, subject to Landlord’s right to Notice and opportunity to cure in accordance with Section 24.11: (a) any material breach by Landlord of its obligations under this Lease; or (b) Landlord’s failure to comply with any material restriction or prohibition in this Lease.

45. Landlord Parties. Collectively, Landlord, its City Council, elected officials, officers, employees, and agents.

46. Landlord Party. Individually, Landlord, its City Council, elected officials, officers, employees, or agents.

47. Law. All laws, ordinances, requirements, orders, proclamations, directives, rules, or regulations of any Government affecting the Premises, this Lease, or any Construction in any way, including any development, use, maintenance, taxation, operation, or occupancy of, or environmental condition affecting, the Premises, or relating to any taxes, or otherwise relating to this Lease or any Party’s rights, obligations, or remedies under this Lease, whether in force on the Commencement Date or passed, enacted, modified, amended, or imposed at some later time, subject in all cases, however, to any applicable waiver, variance, or exemption.

48. Lease Year. Each of: (a) the period from the Commencement Date through December 31 of the calendar year during which the Commencement Date occurs; and (b) every subsequent period of twelve (12) calendar months beginning on January 1 and ending on the immediately following December 31 during the Term. Each Lease Year is referred to in this Lease in consecutive chronological order, starting with “Lease Year 1” and continuing with “Lease Year 2,” and “Lease Year 3.”

49. Leasehold Estate. Tenant’s leasehold estate in the Premises, and all Tenant’s rights and privileges under this Lease, upon and subject to all the terms and conditions of this Lease.

50. Legal Costs. For any Person, means all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys' fees, court costs, and expenses, including in or as a result of any: (a) Bankruptcy Proceeding; (b) litigation between the Parties; (c) negotiating or documenting any agreement, certificate or other matter with a Third Person requested by the other Party; (d) requirement or request that such Person or its employees act as a witness in any proceeding regarding this Lease or the other Party; or (e) review or approval that the other Party requests of such Person. All references to Legal Costs of Landlord shall include the salaries, benefits and costs of the City Attorney in representing Landlord and the lawyers employed in the City Attorney's office who provide legal services regarding a particular matter, adjusted to or billed at an hourly rate based on their respective salary and multiplied by the time spent on such matter rounded to increments of 1/10th of an hour, in addition to Legal Costs of outside counsel retained by Landlord for any matter.
51. Reserved
52. Loss. Any Casualty, Condemnation, or other damage or injury to the Premises.
53. Loss Proceeds. Any Condemnation Award(s) or Property Insurance Proceeds.
54. Maintenance Deficiency. Defined in Section 10.3.
55. Maintenance Standard. Defined in Section 10.2.
56. Market Value. Regarding either the Fee Estate or the Leasehold Estate, as applicable, means, as of any date of determination, the present fair market value of such estate (including the fair market value of the rights of the holder of such estate in and to any improvements) as of such date, considered: (a) as if no Loss occurred; (b) without adjusting for any expectation of any Loss; (c) as if the Leasehold Estate was not terminated; (d) taking into account the benefits and burdens of this Lease, the remaining Term, and all other matters affecting such estate and its valuation, in accordance with then current appraisal practices; and (e) discounting to present value all the obligations and benefits associated with such estate (including, in the case of the Fee Estate, the Rent and Landlord's reversion). The Market Value shall be determined as if the Term were to continue until the Scheduled Expiration Date.
57. Mayor. The Mayor, from time to time, of Landlord or such Person's designee or successor in function, or, if the Fee Estate is transferred to a Person other than Landlord, then such Fee Estate owner's representative designated in a Notice to Tenant.
58. Modification. Any abandonment, amendment, cancellation, discharge, extension, modification, rejection, renewal, replacement, restatement, substitution, supplement, surrender, termination, or waiver of a specified agreement or document, or of any of its terms or provisions, or the acceptance of any cancellation, rejection, surrender, or termination of a specified agreement, document, or terms.
59. Modify. Agree to, cause, make, or permit any Modification.

60. Monetary Default. Any failure by Tenant to: (a) pay, when and as this Lease requires, any Rent, including Additional Rent, whether to Landlord or to a Third Person; (b) properly apply any Loss Proceeds or other money, if any, that this Lease requires Tenant to apply in a particular manner or for a particular purpose; (c) comply with all obligations regarding Prohibited Liens set forth in Section 13; or (d) obtain, replace, maintain, or pay premiums for (or give Landlord written evidence of) any insurance coverage when and as this Lease requires.
61. Non-Monetary Default. The occurrence of any of the following, except to the extent constituting a Monetary Default: (a) any material breach by Tenant of its obligations under this Lease; (b) Tenant's failure to comply with any material restriction or prohibition in this Lease; or (c) any other event or circumstance that, with passage of time or giving of Notice, or both, would constitute a material breach of this Lease by Tenant.
62. Notice. Any approval, consent, demand, designation, election, notice, or request relating to this Lease, including any Notice of Default or termination of this Lease or Notice of a Landlord Default. Notices shall be delivered, and shall become effective, only in accordance with Section 26.
63. Notice of Default. Any Notice claiming or giving Notice of a Default. A Notice of Default is not required to specify any cure period.
64. Notify. Give a Notice.
65. Operating Hours. Defined in Section 9.4.
66. Parties. Collectively, Landlord and Tenant.
67. Party. Individually, Landlord or Tenant, as applicable.
68. Permitted Exceptions. Each of the following matters: (a) taxes not on rolls; (b) the lien of Real Estate Taxes, if any, relating to the Leasehold Estate because of the creation of the Leasehold Estate under this Lease; (c) all adverse claims based upon the assertion that some portion of said land is tide or submerged lands or has been created by artificial means or has accreted to such portion so created; (d) zoning, environmental, municipal, building, and all other Laws imposed by any Federal, State, municipal, or local government or any public or quasi-public board, authority, or similar agency having jurisdiction over the Premises; (e) all Applications made at Tenant's request or all Approvals issued because of such Applications; and (f) matters consented to or otherwise caused by Tenant.
69. Permitted Use. Providing of services required to be performed by Tenant under the Animal Services Contract between the Landlord and Tenant, and for no other purpose whatsoever without Landlord's prior written consent.
70. Person. Any association, corporation, Government, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization, or other entity of any kind.

71. Premises. Collectively, the real property described in **EXHIBIT B** attached to this Lease, including all improvements located on such real property on or after the Commencement Date.
72. Prevailing Wage Law. State Labor Code Sections 1720 through 1782, **EXHIBIT F**, and, if applicable, the Federal Davis-Bacon Act.
73. Prevailing Wage Determination. Any of the following: (a) any determination by the State or Federal Government that prevailing wage rates should have been paid, but were not; (b) any determination by the State or Federal Government that higher prevailing wage rates than those paid should have been paid; (c) any administrative or legal action or proceeding arising from any failure to comply with any Prevailing Wage Law, including the obligation to maintain certified payroll records pursuant to State Labor Code section 1776; or (d) any administrative or legal action or proceeding to recover wage amounts or impose penalties or sanctions, at law or in equity, including pursuant to State Labor Code section 1781 or 1782.
74. Prohibited Lien. Any mechanic's, vendor's, laborer's, or material supplier's statutory lien or other similar lien against the Leasehold Estate arising from work, labor, services, equipment, or materials supplied, or claimed to have been supplied, to Tenant (or anyone claiming through Tenant).
75. Prohibited Transferee. Any Person: (a) with whom Landlord is in litigation at the time the Transfer to such Person is made or is to be made by Tenant, exclusive of defendants in eminent domain litigation commenced by Landlord where the right of Landlord to take the subject property is not challenged; (b) that Landlord reasonably determines has any connection with any terrorist organization, including, any foreign governmental entity identified as a "State Sponsor of Terrorism" by the United States Department of State or subject to economic or political sanctions by the United States or any Person identified as a specially designated national or blocked person by the United States Department of the Treasury listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, U.S. Department of the Treasury, or otherwise subject to any other prohibition or restriction imposed by laws, rules, regulations or executive orders, including Executive Order No. 13224, administered by the Office of Foreign Asset Control; (c) that is entitled to claim diplomatic immunity; (d) that is a domestic or foreign governmental entity; or (e) that is immune or may elect to be immune from suit under State or Federal law.
76. Property Insurance. Defined in **EXHIBIT D**.
77. Property Insurance Proceeds. Net proceeds (after reasonable costs of adjustment and collection, including Legal Costs) of Property Insurance, when and as received by Landlord, Tenant, or Depository, excluding proceeds of Tenant's business interruption insurance exceeding Rent.
78. Real Estate Taxes. All general and special real estate taxes (including taxes on FF&E, sales taxes, use taxes and the like), supplemental taxes, possessory interest taxes, special taxes imposed pursuant to the Mello-Roos Community Facilities District Act or other special taxing district, assessments, municipal water, and sewer rents, rates and charges, excises, levies, license and permit fees, fines, penalties and other Governmental charges and any interest or costs with respect

thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind or nature whatsoever that at any time during the Term and applicable to the Term or any part of it that may be assessed, levied, imposed upon, or become due and payable out of or in respect of, or charged with respect to or become a lien on, the Premises, or any vault, passageway or space in, over or under any street constituting a portion of the Premises, or any FF&E, Equipment or other facility used in the operation of the Premises, or the rent or income received from the Premises, or any use or occupancy of the Premises. If at any time during the Term, the method of taxation prevailing at the Commencement Date shall be altered so that any new tax, assessment, levy (including any municipal, State or Federal levy), imposition, or charge, or any part thereof, shall be measured by or be based in whole or in part upon the Premises or any rent or income from the Premises and imposed upon Landlord, then all such new taxes, assessments, levies, real estate taxes, or charges, or the part thereof, to the extent that they are so measured or based, shall be deemed to be included within the term "Real Estate Taxes," to the extent that such Real Estate Taxes would be payable, if the Premises were the only property of Landlord subject to such Real Estate Taxes.

79. Rent. Collectively, Base Rent and all Additional Rent.

80. Requesting Party. Defined in Section 29.

81. Restoration. After a Loss, the alteration, clearing, rebuilding, reconstruction, repair, replacement, restoration, and safeguarding of the damaged or remaining improvements, substantially equivalent to their condition before the Loss, subject to any Law limiting the foregoing.

82. Restoration Funds. Any Loss Proceeds (and deposits by Tenant) to be applied to Restoration.

83. Restore. Accomplish a Restoration.

84. Reserved.

85. Scheduled Expiration Date. The earlier of 11:59 p.m. on June 30th, 2033 or the earlier termination of the Animal Services Contract.

86. SDMC. Defined in Section 9.15.

87. Sign. Defined in Section 9.17.

88. State. The State of California.

89. Substantial Condemnation. Any Condemnation that: (a) takes the entire Premises; or (b) in Tenant's reasonable determination renders the remainder of the Premises Uneconomic.

90. Temporary Condemnation. A Condemnation of the temporary right to use or occupy all or part of the Premises.

91. Tenant. San Diego Humane Society

92. Tenant Improvements. Items that are or are to be installed on the Premises by or for the benefit of Tenant, such as floor coverings, wall coverings, walls and doors that are not load bearing, window treatments, and other similar items.
93. Tenant Official. A Person holding a senior level management position with Tenant who has intimate knowledge regarding operation of the Premises, as designated by Notice from Tenant to Landlord, from time to time. On the Commencement Date, the Tenant Official is Michael E. Lowry, Chief Financial Officer.
94. Tenant Parties. Collectively, Tenant, its directors, officers, members, managers, partners, employees, agents, attorneys, and owners of Equity Interests in Tenant.
95. Tenant Party. Individually, Tenant, its directors, officers, members, managers, partners, employees, agents, attorneys, or owners of Equity Interests in Tenant.
96. Term. Defined in Section 4.
97. Third Person. Any Person that is not a Party, an Affiliate of a Party or an elected official, director, officer, shareholder, member, principal, partner, manager, owner of an Equity Interest, employee, or agent of a Party.
98. Transfer. Any of the following events, whether occurring by operation of law or otherwise, voluntarily or involuntarily, or directly or indirectly: (a) any assignment, conveyance, grant, hypothecation, mortgage, pledge, sale, or other transfer, whether direct or indirect, of all or any part of Tenant's legal, beneficial, or equitable interest in this Lease; (b) any conversion, exchange, issuance, modification, reallocation, sale, or other transfer, or series of such actions, of any direct or indirect Equity Interest(s) in Tenant by the owner(s) of such Equity Interest(s) to a Person who is not an employee of Tenant or resulting in a change of ownership of more than 25% of the Equity Interests in Tenant; (c) any transaction described in clause "(b)" affecting any Equity Interest(s) or any owner of Equity Interests (or in any other direct or indirect owner at any higher tier of ownership) through any manner or means whatsoever; or (d) any transaction that is in substance equivalent to any of the foregoing. A transaction affecting Equity Interests, as referred to in clauses "(b)" through "(d)," shall be deemed a Transfer by Tenant even though Tenant is not technically the transferor. A "Transfer" shall not, however, include any of the foregoing (provided that the other Party to this Lease has received Notice of such event) relating to any Equity Interest: (i) that constitutes a mere change in form of ownership with no material change in beneficial ownership and constitutes a tax-free transaction under federal income tax law and the State real estate transfer tax; or (ii) to any Person that, as of the Commencement Date, holds an Equity Interest in the Person whose Equity Interest is being transferred.
99. Transferee. Each Person (other than a Prohibited Transferee) acquiring an Equity Interest in Tenant through an Equity Interest Transfer or acquiring all or any portion of Tenant's interest in this Lease through a Transfer. A Person who is a Prohibited Transferee shall never be a "Transferee."
100. Unavoidable Delay. A delay in either Party performing any obligation under this Lease arising from or on account of any cause whatsoever beyond the Party's reasonable control,

including strikes, labor troubles or other union activities, Casualty, war, acts of terrorism, riots, Government action or inaction, regional natural disasters, or inability to obtain materials, except for the payment of money, unless the delay in the payment of money is due to one of the causes described above that prevents or materially limits the ability to transfer funds by or between financial institutions. Unavoidable Delay shall not include delay caused by a Party's financial condition, illiquidity, or insolvency.

101. Uneconomic. The Premises: (a) are materially diminished in value or utility; (b) cannot be used for the intended purpose; (c) are subject to material impairment of access to, required parking facilities, or any material service(s) necessary or appropriate for economic operation; (d) require Restoration at a total cost that Tenant reasonably estimates in writing would exceed 1.5 times the then-current Market Value of the Premises; (e) do not comply with the operating requirements under a necessary Government license held by Tenant; or (f) cannot reasonably be operated as the Premises, whether in a manner substantially equivalent to past practice or on a scale that is smaller but nevertheless profitable (after taking into account the payment of all expenses, including Rent as adjusted after any Condemnation) and reasonably feasible.

102. Reserved.

**EXHIBIT B
TO
LEASE
(5480 Gaines Street, San Diego, CA 92110)**

PREMISES DESCRIPTION



**EXHIBIT C
TO
LEASE
(5480 Gaines Street, San Diego, CA 92110)**

NOTICE ADDRESSES

Tenant:

SAN DIEGO HUMANE SOCIETY
Attention: Director of Government Relations
5500 Gaines Street San Diego, CA 92110

Landlord:

THE CITY OF SAN DIEGO
Attention: Director, Department of Real Estate and Airport Management
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, California 92101
(619) 236-6020

EXHIBIT D
TO
LEASE
(5480 Gaines Street, San Diego, CA 92110)

INSURANCE REQUIREMENTS

1. Required Insurance Coverage.

- 1.1. *Automobile Liability Insurance.* Insurance coverage against claims of personal injury (including bodily injury and death), and property damage covering all owned, leased, hired, and non-owned vehicles used by Tenant, with minimum limits for bodily injury and property damage of One Million Dollars (\$1,000,000). Such insurance shall be provided by a business or commercial vehicle policy and may be provided through a combination of primary and excess or umbrella policies, all of which shall be subject to pre-approval by Landlord, which pre-approval shall not be unreasonably withheld.
- 1.2. *Liability Insurance.* Commercial general liability insurance against claims for bodily injury, personal injury, death, or property damage occurring upon, in or about the Premises or adjoining streets or passageways, at least as broad as Insurance Services Office Occurrence Form CG0001, with a minimum liability limit of Five Million Dollars (\$5,000,000.00) for any one occurrence and Ten Million Dollars (\$10,000,000.00) aggregate. Commercial general liability insurance coverage may be provided through a combination of primary and excess or umbrella insurance policies. If commercial general liability insurance or other form with a general aggregate limit is used, the general aggregate limit shall apply separately to the Premises.
- 1.3. *Causes of Loss - Special Form Property Insurance.* Tenant shall obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of Tenant's insurable property related to the Permitted Use of the Premises under this Lease or the Premises in an amount to cover 100 percent (100%) of the replacement cost. Tenant shall deliver a certificate of such insurance to Landlord's Department of Real Estate & Airport Management.
- 1.4. *Workers Compensation Insurance.* Workers compensation insurance complying with the provisions of State law and an employer's liability insurance policy or endorsement to a liability insurance policy, with a minimum liability limit of One Million Dollars (\$1,000,000) per accident for bodily injury, or disease, covering all employees of Tenant.

- 2. Nature of Insurance.** The contents of this **EXHIBIT D** are sometimes referred to as the "**Insurance Requirements.**" All Liability Insurance, Automobile Liability Insurance, Property Insurance, and Workers Compensation Insurance policies required by these Insurance Requirements shall be issued by carriers that: (a) are listed in the then

current "Best's Key Rating Guide—Property/Casualty—United States & Canada" publication (or its equivalent, if such publication ceases to be published) with a minimum financial strength rating of "A-" and a minimum financial size category of "VII" (exception may be made for the State Compensation Insurance Fund when not specifically rated); and (b) are authorized to do business in the State by the State Department of Insurance. Tenant may provide any insurance under a "blanket" or "umbrella" insurance policy, provided that: (i) such policy or a certificate of such policy shall specify the amount(s) of the total insurance allocated to the Premises, which amount(s) shall equal or exceed the amount(s) required by these Insurance Requirements; and (ii) such policy otherwise complies with the requirements of these Insurance Requirements.

3. Policy Requirements and Endorsements. All insurance policies required by these Insurance Requirements shall contain (by endorsement or otherwise) the following provisions:

- 3.1. *Insured.* Liability Insurance policies shall name the Landlord Parties as "additional insured." The coverage afforded to the Landlord Parties shall be at least as broad as that afforded to Tenant regarding the Premises and may not contain any terms, conditions, exclusions, or limitations applicable to the Landlord Parties that do not apply to Tenant.
- 3.2. *Primary Coverage.* Any insurance or self-insurance maintained by the Landlord Parties shall be excess of all insurance required to be maintained by Tenant pursuant to these Insurance Requirements and shall not contribute with any insurance required to be maintained by Tenant pursuant to these Insurance Requirements.
- 3.3. *Contractual Liability.* Liability Insurance policies shall contain contractual liability coverage for Tenant's Indemnity obligations under this Lease. Tenant's obtaining or failing to obtain such contractual liability coverage shall not relieve Tenant from nor satisfy any Indemnity obligation of Tenant under this Lease.
- 3.4. *Deliveries to Landlord.* Evidence of Tenant's maintenance of all insurance policies required by these Insurance Requirements shall be delivered to Landlord before the Commencement Date. No later than thirty (30) days before any insurance required by these Insurance Requirements expires, is cancelled or its liability limits are reduced or exhausted, Tenant shall deliver to Landlord evidence of Tenant's maintenance of all insurance required by these Insurance Requirements. Each insurance policy required by these Insurance Requirements shall be endorsed to state that coverage shall not be cancelled, suspended, voided, reduced in coverage or in limits, except after sixty (60) days' advance written Notice of such action to Landlord. Phrases such as "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall not be included in the cancellation wording of any certificates or policies of insurance applicable to the Landlord Parties pursuant to these Insurance Requirements.

- 3.5. *Waiver of Certain Claims.* Tenant shall cause each insurance carrier providing any Liability Insurance, Worker's Compensation Insurance, or Automobile Liability Insurance coverage pursuant to these Insurance Requirements to endorse their applicable policy(ies) with a Waiver of Subrogation (defined below) with respect to the Landlord Parties, if not originally in the policy. To the extent Tenant obtains an insurance policy covering both the Tenant Parties and the Landlord Parties and containing a Waiver of Subrogation, the Parties release each other from any Claims for damage to any Person or property to the extent such Claims are paid by the insurance carrier pursuant to such insurance policy. **“Waiver of Subrogation”** means and refers to a provision in, or endorsement to, any insurance policy, pursuant to which the carrier agrees to waive rights of recovery by way of subrogation against the Landlord Parties for any loss such insurance policy covers.
- 3.6. *No Representation.* No Party makes any representation that the limits, scope, or forms of insurance coverage required by these Insurance Requirements are adequate or sufficient.
- 3.7. *No Claims Made Coverage.* None of the insurance coverage required by these Insurance Requirements may be written on a claims-made basis.
- 3.8. *Fully Paid and Non-Assessable.* All insurance obtained and maintained by Tenant in satisfaction of these Insurance Requirements shall be fully paid for and non-assessable.
- 3.9. *Separation of Insured.* All Liability Insurance and Automobile Liability Insurance shall provide for separation of insured for Tenant and the Landlord Parties. Insurance policies obtained in satisfaction of these Insurance Requirements may provide a cross-suits exclusion for suits between named insured Persons but shall not exclude suits between named insured Persons and additional insured Persons.
- 3.10. *Deductibles and Self-Insured Retentions.* All deductibles or self-insured retentions under insurance policies required by these Insurance Requirements shall be declared to and approved by Landlord. Tenant shall pay all such deductibles or self-insured retentions regarding the Landlord Parties. Each insurance policy issued in satisfaction of these Insurance Requirements shall provide that, to the extent Tenant fails to pay all or any portion of a self-insured retention under such policy in reference to an otherwise insured loss, Landlord may pay the unpaid portion of such self-insured retention, in Landlord's sole and absolute discretion. All amounts paid by Landlord toward self-insured retentions regarding insurance policies covering the Landlord Parties pursuant to these Insurance Requirements shall be reimbursed to Landlord by Tenant in the same manner that insurance costs are reimbursable to Landlord from Tenant pursuant to Section 5 of these Insurance Requirements.
- 3.11. *No Separate Insurance.* Tenant shall not carry separate or additional insurance concurrent in form or contributing in the event of loss with insurance coverage required by these Insurance Requirements unless the Landlord Parties are made additional insured under such insurance coverage.

4. **Insurance Independent of Indemnification.** These Insurance Requirements, are independent of the Parties' Indemnification and other obligations under this Lease and shall not be construed or interpreted in any way to satisfy, restrict, limit or modify the Parties' Indemnification or other obligations or to limit the Parties' liability under this Lease, whether within, outside or in excess of such coverage, and regardless of solvency or insolvency of the insurer issuing the coverage, nor shall the provision of such insurance preclude Landlord from taking such other actions as are available to Landlord under any other provision of this Lease or otherwise at law or in equity.
5. **Landlord Option to Obtain Coverage.** During the continuance of an Event of Default arising from the failure of Tenant to carry any insurance coverage required by these Insurance Requirements, Landlord may, in Landlord's sole and absolute discretion, purchase such required insurance coverage. Landlord shall be entitled to immediate payment from Tenant of all premiums and associated reasonable costs paid by Landlord to obtain such insurance coverage. Each amount becoming due and payable to Landlord under this Section 5 that is not paid within fifteen (15) days after Notice from Landlord with an explanation of the amounts owed, will accrue Default Interest from the date incurred until paid. Election by Landlord to purchase or not to purchase insurance coverage otherwise required by these Insurance Requirements to be carried by Tenant shall not relieve Tenant of any Default or Event of Default or Tenant's obligation to obtain and maintain any insurance coverage required by these Insurance Requirements.
6. **Insurance from Others.** As a condition precedent to a Person, including flight clubs, participating in Flight Activities on or from the Premises, Tenant shall require that all Persons, including flight clubs, participating in Flight Activities on or from the Premises provide a current certificate of Liability Insurance complying with these Insurance Requirements.

EXHIBIT E
TO
LEASE
(5480 Gaines Street, San Diego, CA 92110)

LANDLORD STANDARD CONTRACT PROVISIONS

1. **Tenant Certifications of Compliance.** By signing this Lease, Tenant agrees and certifies that Tenant is aware of, and will comply with, all the following requirements in performance of this Lease:

1.1 Tenant Certification for Americans with Disabilities Act (“ADA”) and State Access Laws and Regulations. Tenant shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Tenant shall comply with the most restrictive requirement (i.e., that which provides the most access). Tenant also shall comply with the Landlord’s ADA Compliance/Landlord Contractors requirements set forth in Council Policy 100-04, which is incorporated into this Lease by reference. Tenant warrants and certifies compliance with all Federal and State access laws and regulations and further certifies that all subcontracts relating to this Lease or the Premises will contain the subcontractor’s agreement to abide by the provisions of Council Policy 100-04 and all applicable Federal and State access laws and regulations.

1.2 Compliance with Landlord’s Equal Opportunity Contracting Program (“EOCP”). Tenant shall comply with all EOCP requirements. Tenant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Tenant shall provide equal opportunity in all employment practices. Tenant shall ensure that its subcontractors comply with the EOCP. Nothing in this Section 1.2 shall be interpreted to hold Tenant liable for any discriminatory practice of its subcontractors. Prior to commencing the Permitted Use on the Premises, Tenant shall contact the EOCP staff to determine compliance with all applicable rules and regulations.

1.3 Equal Benefits Ordinance Certification. Unless an exception applies, Tenant shall comply with the Equal Benefits Ordinance codified in San Diego Municipal Code (“SDMC”) section 22.4308.

1.4 Equal Pay Ordinance. Unless an exception applies, Tenant shall comply with the “Equal Pay Ordinance” codified in SDMC sections 22.4801 through 22.4809. Tenant shall certify in writing that it will comply with the requirements of the Equal Pay Ordinance. The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of Tenant to the same extent as it would apply to Tenant. Tenant shall require all its subcontractors to certify compliance with the Equal Pay Ordinance in written subcontracts.

1.5 Product Endorsement. Tenant shall comply with Council Policy 000-41 concerning product endorsement requiring that any advertisement referring to Landlord as a user of a good or service must have the prior written approval of the Mayor.

1.6 Business Tax Certificate. Unless Landlord's City Treasurer determines in writing that Tenant is exempt from the payment of business tax, Tenant is required to obtain a Landlord business tax certificate and provide a copy of such certificate to Landlord before commencing the Permitted Use.

**EXHIBIT F
TO
LEASE
(5480 Gaines Street, San Diego, CA 92110)**

PREVAILING WAGE REQUIREMENTS

1. **PREVAILING WAGES.** Pursuant to San Diego Municipal Code section 22.3019 (“**PWO**”), construction work performed or funded pursuant to this Lease cumulatively exceeding \$25,000 and alteration, demolition, repair and maintenance work performed, or funded pursuant to this Lease cumulatively exceeding \$15,000 is subject to the State prevailing wage law set forth in State Labor Code sections 1720 through 1862 (“**Prevailing Wage Law**”) and in undertaking any and all such work, Tenant and Tenant’s contractors and subcontractors shall comply with Prevailing Wage Law, including the requirements set forth in this **EXHIBIT F**. This requirement to comply with Prevailing Wage Law is in addition to any requirement to pay “living wage” pursuant to San Diego Municipal Code sections 22.4201 through 22.4245 (“**LWO**”). If both Prevailing Wage Law and the LWO are applicable to particular work, Tenant and Tenant’s contractors and subcontractors must determine which per diem rate is highest for each classification of work between the applicable prevailing wage rate and living wage rate and pay the higher of the two rates to their employees. The LWO may apply to work that is not subject to Prevailing Wage Law.

1.1 Compliance with Prevailing Wage Requirements. Pursuant to Prevailing Wage Law, Tenant and Tenant’s contractors and subcontractors shall all ensure that all workers who perform work that is subject to Prevailing Wage Law are paid not less than the prevailing rate of per diem wages, as determined by the Director of the California Department of Industrial Relations (“**DIR**”), including work performed during the design and preconstruction phases of construction, which encompasses, without limitation, inspection and land surveying work.

1.1.1 Copies of the prevailing rate of per diem wages are on file with Landlord and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Tenant and Tenant’s contractors and subcontractors shall all post a copy of the prevailing rate of per diem wages determination at each job site and shall make this information available to all interested Persons upon request. Tenant and Tenant’s contractors and subcontractors shall all deliver evidence of the required job site posting to Landlord, within five (5) days after such posting.

1.1.2 The wage rates determined by DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the Term. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with DIR, such predetermined wage rate shall become effective on the date following the expiration date of the previous wage rate and shall apply to this Lease in the same manner as if it had been published. If the predetermined wage rate refers to one or more

additional expiration dates with additional predetermined wage rates, which expiration dates occur during the Term, each successive predetermined wage rate shall apply to this Lease on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expire during the Term, such wage rate shall apply to the balance of the Term.

1.2 Penalties for Violations. Tenant and Tenant's contractors and subcontractors shall all comply with State Labor Code section 1775, in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. Compliance with State Labor Code section 1775 shall be in addition to all other applicable penalties allowed under State Labor Code sections 1720-1861.

1.3 Payroll Records. Tenant and Tenant's contractors and subcontractors shall all comply with State Labor Code section 1776, which generally requires keeping accurate payroll records, verifying, and certifying payroll records, and making them available for inspection. Tenant and Tenant's contractors and subcontractors shall all comply with State Labor Code section 1776, including having provisions requiring such compliance in all contracts with subcontractors. Any requirement to submit certified payroll records to DIR shall include submitting certified payroll records to DIR through its online system for submission of certified payroll records, as required by DIR. Further, Tenant and Tenant's contractors and subcontractors shall all furnish the records specified in State Labor Code section 1776 directly to the State Labor Commissioner in the manner required in State Labor Code section 1771.4. Tenant is responsible for ensuring that Tenant's contractors and subcontractors submit certified payroll records to Landlord, the State Labor Commissioner, and DIR.

1.4 Apprentices. Tenant and Tenant's contractors and subcontractors shall all comply with State Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. Tenant shall be held responsible for its compliance and the compliance of Tenant's contractors and subcontractors with State Labor Code sections 1777.5, 1777.6, and 1777.7.

1.5 Working Hours. Tenant and Tenant's contractors and subcontractors shall all comply with State Labor Code sections 1810 through 1815, including: (i) restricting working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specifying penalties to be imposed on design professionals, contractors, and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of State Labor Code sections 1810 through 1815.

1.6 Required Provisions for Subcontracts. Tenant shall include, at a minimum, a copy of the following provisions in any contract it enters into with a contractor or subcontractor: State Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860, and 1861.

1.7 Labor Code Section 1861 Certification. In accordance with State Labor Code section 3700, Tenant and Tenant's contractors and subcontractors are all required to secure the payment of compensation of their respective employees and by signing this Lease or any contract or subcontract, respectively, Tenant and Tenant's contractors and subcontractors all certify that "I am aware of the provisions of section 3700 of the State 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 I will comply with such provisions before commencing the performance of the work of this contract." Tenant shall include this certification in all contracts with each contractor or subcontractor.

1.8 Registration Requirements. All work is subject to compliance monitoring and enforcement by DIR. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal subject to the requirements of State Public Contract Code section 4104, or engage in the performance of any contract for public work, as defined in Prevailing Wage Law, unless currently registered and qualified to perform the work pursuant to State Labor Code section 1725.5. In accordance with State Labor Code section 1771.1(a), "[i]t is not a violation of this section for an unregistered contractor to submit a bid that is authorized by section 7029.1 of the State Business and Professions Code or by section 10164 or 2103.5 of the State Public Contract Code, provided the contractor is registered to perform public work pursuant to section 1725.5 at the time the contract is awarded."

1.8.1 A contractor's inadvertent error in listing a subcontractor who is not registered pursuant to State Labor Code section 1725.5 in a response to a solicitation shall not be grounds for filing a bid protest or grounds for considering the bid non-responsive, provided that any of the following apply: (1) the subcontractor is registered prior to bid opening; (2) within twenty-four hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in State Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered contractor pursuant to State Public Contract Code section 4107.

1.8.2 A contract entered into with any contractor or subcontractor in violation of State Labor Code section 1771.1(a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of State Labor Code section 1725.5.

1.8.3 By entering into this Lease, Tenant is certifying that it has verified or will verify that all contractors and subcontractors used on work subject to Prevailing Wage Law are registered with DIR in compliance with State Labor Code sections 1771.1 and 1725.5, and shall provide proof of such registration to Landlord.

1.9 Filing of Form PWC-100. Tenant shall timely file a PWC-100 Form (or other form required by DIR) with DIR, as and when required by Prevailing Wage Law, and concurrently deliver a copy of such filed form to Landlord.

Filing of Notice of Completion. Tenant shall record a notice of completion in accordance with State Civil Code section 8182, et seq., with the Recorder for the County of San Diego, California, and concurrently deliver a copy of such recorded notice of completion to Landlord.

**EXHIBIT G
TO
LEASE
(5480 Gaines Street, San Diego, CA 92110)**

ANIMAL SERVICES CONTRACT

[TO BE INSERTED]

EXHIBIT F



Community Cat Program Overview

San Diego County is home to an estimated 300,000-500,000 free-roaming “community cats.” Caring for community cats, while working to stabilize and ultimately reduce their numbers, is one of the most complex issues facing animal shelters today.

San Diego Humane Society’s Community Cat Program is based on the work of leading animal welfare organizations, veterinarians and researchers, and was developed with a simple, clear goal in mind: to do what’s best for cats. We strive to achieve the best, most compassionate outcome for every animal in San Diego County, just as we’ve been committed to doing for more than 140 years. Our Community Cat Program accomplishes this by spaying/neutering, vaccinating, conducting a medical evaluation and providing minor medical care as appropriate, and returning healthy community cats to their outdoor homes.

What is a community cat?

“Community cats” are free-roaming, outdoor cats with no verifiable signs of ownership. These cats are found all over the world. Community cats can be feral or friendly, young or old. Here in San Diego County, they live in our urban areas, parks, canyons, backyards and beach communities.

Why don’t traditional sheltering methods work for community cats?

The traditional shelter model was originally developed to care for dogs and livestock, and simply does not meet the unique needs of cats. As a result, shelters do not provide the best option for the welfare of cats, and statistics demonstrate that: Nationally, cats admitted to shelters have only a 2% chance of being reunited with their owner, and a nearly 50% chance of being euthanized.

In shelter environments, community cats who are accustomed to roaming miles each day are confined to small quarters in highly populated indoor spaces, which can lead to extreme stress and illness — which then results in significantly higher rates of death and humane euthanasia.

It is important to note that cats live and thrive outdoors all over the world — in Africa, Asia, Australia, South America and beyond. In fact, North America is the only continent in which keeping indoor-only cats has become common practice. Even in the United States, keeping indoor cats as pets only became popular after 1947, with the invention of cat litter, and then became more commonplace in the 1970s when shelters advocated for keeping cats indoors in an effort to control population. Additionally, cats — unlike their canine counterparts — have DNA that has remained unchanged for the past 4 million years. As a result, they remain perfectly capable of thriving in the wild.

A New Solution: Comprehensive Community Cat Programs

San Diego Humane Society and other leading animal welfare organizations are creating

comprehensive community cat programs to best meet the needs of individual cats while helping to reduce their population over time. The focus of these programs is to do what's best for community cats by spay/neutering, vaccinating, conducting a medical evaluation and providing minor medical care as appropriate, and returning healthy community cats to their outdoor homes.

Supporters of these programs include a wide range of veterinarians, shelter experts and leading animal welfare organizations — including Alley Cat Allies, American Pets Alive, Best Friends, the Humane Society of the United States, the Koret Shelter Medicine Program at the University of California, Davis, and Maddie's Shelter Medicine Program at the University of Florida. In addition to being what's best for individual cats, spaying/neutering community cats and returning them outdoors is the only approach proven to reduce their population numbers over time. While programs that care for community cats may have slight variations and go by different names, including Spay/Neuter Return (SNR), Trap/Neuter Return (TNR) or Return to Field (RTF), they are all focused on the same thing: ensuring the best outcomes for healthy, unowned, outdoor cats.

San Diego Humane Society's Community Cat Program relies on years of scientific research, as well as discussion and debate among those in the animal welfare community who have dedicated their lives to doing what's best for animals. Community cats entering the program are spayed/neutered, vaccinated, provided minor medical care when appropriate and quickly returned to their outdoor homes. This program only applies to healthy cats, and those with easily treatable conditions, who have demonstrated they are doing well living outside. It does not apply to cats who enter the shelter with identifiable signs of ownership (tags, microchips, collars, etc.), are unhealthy, show signs of having been recently abandoned, were relinquished by their owners, or were found in a location that presented an immediate danger.

Learn more by reviewing our [Community Cat FAQs](#) as well as our [Research and Resources page](#).

EXHIBIT G
PERFORMANCE MEASURES AND STANDARDS OF SERVICE

Performance measures and standards of service described in this Exhibit may be modified, added to, or removed if mutually approved by the City and the Contractor.

A. ANIMAL FIELD SERVICES REQUIRED RESPONSE TIMES. The priority category assigned to each type of service determines the required response time.

| Priority Category/Response Time | Example of Call |
|--|--|
| Priority 1: Immediate Response within 30 minutes | <ul style="list-style-type: none"> • Persons in danger • Animal in immediate danger • Urgent medical care needed • Animal in a secured vehicle (“Hot Dog”) • Animal fighting cases • Intentional cruelty in-progress • Assist Public Safety agency • Bite to person (animal not contained) • Exigent circumstances: gunshot wounds, stabbings, broken bones, serious open wounds, visibly injured/trapped animal • Street sale of animals (after all other Priority 1 calls are handled) |
| Priority 2: Response within 3 hours | <ul style="list-style-type: none"> • In-progress incidents not reaching Priority 1 • Bite to person (animal contained, reported within 24 hours) • Running-at-large (in progress) • Abandonment • Captured/caged animals/confined strays |
| Priority 3: Response within 12 hours | <ul style="list-style-type: none"> • Intentional cruelty not in-progress • Non-life-threatening medical care needed • Non-exigent circumstances: skin infections, gum/teeth infections, severely emaciated, over-grown hooves • Hoarding – no immediate emergency • After-the-fact bite (reported after 24 hours) |
| Priority 4: Response within 24 hours | <ul style="list-style-type: none"> • Check the well-being with a reporting party • No water (temperature dependent) • Emaciated (thin or bones showing) • Lead too short • Inadequate or no shelter • Event sale of animals (i.e., flea markets) |

| Priority Category/Response Time | Example of Call |
|--------------------------------------|--|
| Priority 5: Response within 48 hours | <ul style="list-style-type: none"> • Check the well-being – no reporting party • Running-at-large (not in-progress) • Pet shop inspections • Rodeo or circus inspections • Kennel inspections |

The following describes the required response time for each priority level and the expected percentage of calls for service to be responded to within the required response time.

1. Priority 1 – Priority 1 calls for service must be responded to within 30 minutes. It is expected **that 90% of Priority 1 calls for service will be responded to within 30 minutes.**
2. Priority 2 – Priority 2 calls for service must be responded to within 3 hours. It is expected **that 80% of Priority 2 calls for service will be responded to within 3 hours.**
3. Priority 3 – Priority 3 calls for service must be responded to within 12 hours. It is expected **that 80% of Priority 3 calls for service will be responded to within 12 hours.**
4. Priority 4 – Priority 4 calls for service must be responded to within 24 hours. It is expected **that 90% of Priority 4 calls for service will be responded to within 24 hours.**
5. Priority 5 – Priority 5 calls for service must be responded to within 48 hours. It is expected **that 90% of Priority 5 calls for service will be responded to within 48 hours.**

Contractor dispatch services should include answering **80% of calls to Dispatch in less than two (2) minutes and have a maximum abandoned call rate of 11%.**

B. ANIMAL SHELTERING. The expected normal outcomes for sheltered animals include the following:

1. Contractor shall initiate or partake in reunification efforts with **100%** of impounded animals that are licensed, chipped, or otherwise identified.
2. Contractor shall make its best effort to achieve a live release rate of **85%** or higher for cats and dogs combined each fiscal year, as defined by the San Diego Welfare Coalition Accords.
3. Contractor shall ensure that **0%** of healthy or treatable animals that enter the Contractor’s shelter system are euthanized, as defined by the San Diego Animal Welfare Coalition Accords.
4. Contractor shall maintain Gaines Street Facility so that all maintenance needs are reported and addressed in a timely manner. The City shall use reasonable efforts to respond to requests seeking approval to conduct any deferred maintenance within 15 days of the request by the Contractor. Stormwater discharge or runoff violations that pre-date Contractor’s occupation of the Gaines Street Facility on June 9, 2018 shall be the responsibility of the City.

- C. MEDIA REQUESTS AND RELEASE OF INFORMATION.** Contractor shall adhere to all media and release of information specifications in Statement of Work (Exhibit B) Sections Q and R, including the following:
1. Contractor shall include the City's Animal Services Program Coordinator or designee on all correspondence that is either sensitive in nature or requires a City spokesperson to respond.
 2. Contractor shall inform the City prior to responding to requests for sensitive and/or controversial information, unless specified in Exhibit B.
- D. CUSTOMER SERVICE.** Contractor shall provide quality customer service.
1. Contractor shall respond to **100%** of new kennel requests (after zoning approval) within 14 days of receipt.
 2. Contractor shall process **100%** of standard license renewal requests within 14 days of receipt.
 3. Contractor shall process (review, record, and notify) **90%** of customer requests for rabies exemption within 14 days of receipt.
 4. Upon receipt, Contractor must respond to **100%** of complaints within **24 hours**.
 5. Contractor shall manage the City of San Diego's dog license program, including working to increase the number of licensed, vaccinated dogs within the City of San Diego.

EXHIBIT H

PARK OFFICER PROGRAM

A. Scope of Work

Contractor will provide a Park Officer Program consisting of Humane Law Enforcement Officers performing the below services at City owned and operated parks and beaches (“Parks”) and joint use areas, as identified by the City.

The Park Officer Program will consist of the following:

1. No fewer than four Humane Law Enforcement Officers assigned to Park Patrol. Short-term, occasional deviations of less than one calendar week due to planned time off, training, call outs related to illness and other unexpected staffing events are permitted. Any long-term staffing or program changes must be agreed upon by City.
2. Use of at least two vehicles during all patrols.
3. Humane Law Enforcement Officers are responsible for the following:
 - a. Conducting regular patrols.
 - b. Conducting additional, as needed, patrols in coordination with the City’s Parks and Recreation Department.
 - c. Responding to calls for service and other community requests and complaints related to animal control enforcement and service issues.
 - d. Conducting investigations of violations that take place in the Parks and joint use areas.
 - e. Participating in community events and meetings involving animal control issues in the Parks and joint use areas.
 - f. Maintaining applicable statistics required by the Contract.
4. Patrols include, but are not limited to, Humane Law Enforcement Officers:
 - a. Walking and driving through Parks and joint use areas, during City use hours as agreed upon between Contractor and the City’s Parks and Recreation Department.
 - b. Educating the public on applicable animal laws.
 - c. Taking enforcement action as appropriate.
 - d. Acting as a visible and frequent deterrent to violators.

EXHIBIT H

5. Joint Use Areas:
 - a. For the purposes of this Park Officer Program, a “joint use area” means property that the City operates pursuant to a contract with the property owner.
 - b. Contractor will coordinate patrolling needs, including patrolling hours, of the joint use areas with the City’s Parks and Recreation Department.
 - c. The City’s Parks and Recreation Department will identify joint use areas that have contracts providing for enforcement of dogs off-leash by the City’s current Animal Services contractor.
 - d. Contactor will coordinate access to designated joint use areas with the City’s Parks and Recreations Department.
 - e. Notwithstanding anything to the contrary in this Contract, Humane Law Enforcement Officers may provide education and outreach to the community members who use the joint use areas prior to issuing citations for off-leash violations. This is to provide a relationship-based approach to off-leash issues at joint use areas, and to help develop positive relationships with all stakeholders.

EXHIBIT I



San Diego Humane Society's Rescue Partner Groups

Rescue groups play a vital role in the success of San Diego Humane Society. The list below reflects many of the groups that San Diego Humane Society partners with. Using the search bar below you may filter by animal type, location or rescue organization.

Type in the input field to filter this list by rescue group's name, their website, animal types or Location:

| Rescue Groups | Website | Animal Type | Location |
|--|--|-------------|-------------------|
| 4 Love of the Paws | loveofthepawsrescue | Dogs | Fallbrook, CA |
| A New Life Charitable Foundation, Inc. | anlcf.org | Dogs | San Diego, CA |
| A Passion for Paws | apassionforpaws.org | Dogs | Romoland, CA |
| Adopt a Saint | adoptasaint.org | Dogs | Lake Forest, CA |
| Adopt Baja | adoptbaja | Dogs | El Cajon, CA |
| Akita Angels | akitaangels.org | Dogs | Santa Clarita, CA |
| Alley's Rescued Angels Canine Rescue, Inc. - ARA | alleysrescuedangels.org | Dogs | Hesperia, CA |
| Amazing Dogs | amazingdogs.org | Dogs | Carlsbad, CA |
| Amazing Strays Rescue | amazingstraysrescue.org | Dogs | San Diego, CA |



| Rescue Groups | Website | Animal Type | Location |
|---|--|-------------|--------------------|
| American Black & Tan Coonhound Rescue | coonhoundrescue | Dogs | Canton, OH |
| Angels of Rawley Foundation - ARF | angelsofrawleyfoundation.org | Dogs | Fallbrook, CA |
| Animal Alliance of San Diego | animalalliancesd.org | Dogs, Birds | El Cajon, CA |
| Animal Lives Matter Always Rescue - ALMA | almarescue.org | Dogs | Oceanside, CA |
| Animal Rescue Resource Foundation - AARF | arrfsandiego.org | Dogs, Cats | Carlsbad, CA |
| ARE Animal Rescue, Inc. | arerescue.org | Cats | Hemet, CA |
| Avian Rehabilitation Center | avianrehabilitationcenterusa.org | Birds | Jamul, CA |
| AZ Sugar Glider Rescue | azsugargliderrescue.org | Exotics | Phoenix, AZ |
| Baja Dog Rescue | bajadogrescue.org | Dogs | Chula Vista, CA |
| Basset Hound Rescue of Southern California | bassethoundrescue.org | Dogs | Whittier, CA |
| Beagle Freedom Project | bfp.org | Dogs | Valley Village, CA |
| Bean's Beagles, Inc. | beansbeagles.org | Dogs | Costa Mesa, CA |
| Bear Ridge Ranch Rescue, Inc. | bearridgeranch.com | Farm | Valley Center, CA |
| Bichon Furkids | bichonfurkids.org | Dogs | Carlsbad, CA |
| Bichon Rescue Brigade | bichonrescuebrigade.org | Dogs | Orange, CA |
| Bichon Rescue of Orange County | bichonrescueoc.org | Dogs | Placentia, CA |
| Big Love Animal Rescue | bigloveanimalrescue.org | Dogs | Valley Village, CA |



| Rescue Groups | Website | Animal Type | Location |
|--|--|-------------|--------------------------|
| Boston Buddies Rescue, Inc. | bostonbuddies.org | Dogs | Huntington Beach, CA |
| BrightHaven, Inc. | brighthaven.org | Dogs, Cats | Palm Desert, CA |
| Cairn Rescue USA | cairnrescueusa.com | Dogs | West Windsor, NJ |
| California Cleft Pup Rescue | californiacleftpuprescue.org | Dogs | Hemet, CA |
| California Miniature Schnauzer Rescue | schnauzers.us | Dogs | La Canada Flintridge, CA |
| Cat Adoption Service - CATS | sdcats.org | Cats | Escondido, CA |
| Cavalier Rescue USA | cavalierrescueusa.org | Dogs | Tucson, AZ |
| CFA Breeder Assistance and Breed Rescue | cfabreedersassist-rescue.org | Cats | Lino Lakes, MN |
| Chicagoland Eskie Rescue | chicagolandeskierescue.com | Dogs | Elmhurst, IL |
| Chihuahua Rescue of San Diego | rescueachi.com | Dogs | Escondido, CA |
| Chows Plus Rescue | chowsplus.org | Dogs | Sacramento, CA |
| Coronado CARES | coronadocares.org | Dogs, Cats | Coronado, CA |
| Crest Care, Inc. | crest-care.net | Dogs | Kingston, NY |
| Critical Care Cat Rescue | criticalcarecatrescue.org | Cats | Bonsall, CA |
| Cute Odyssey | cuteodyssey.org | Dogs | San Diego, CA |
| Dachshund Rescue of Los Angeles | dachshundrescueoflosangeles.com | Dogs | Los Angeles, CA |
| DC Dogos Rescue | dcdogos.org | Dogs | Tampa, FL |



| Rescue Groups | Website | Animal Type | Location |
|--|--|--|-------------------|
| Delaney's Dog | delaneysdog.com | Dogs | Los Angeles, CA |
| Desert Dogs Rescue | desertdogsrescue.org | Dogs, Cats | Tonopah, AZ |
| Doberman Pinscher SOS | dobiesos.net | Dogs | Tehachapi, CA |
| Dogs for Better Lives | dogsforbetterlives.org | Dogs | Central Point, OR |
| East County Animal Rescue | eastcountyanimalrescue.org | Cats | El Cajon, CA |
| Emerald City Pet Rescue | emeraldcitypetrescue.org | Dogs, Cats, Small Animals | Seattle, WA |
| English Springer Rescue America | springerrescue.org | Dogs | Woodstock, GA |
| Ferdinand's Rescue | ferdinandsfamilia.org | Dogs, Cats, Farm, Equine, Birds, Small Animals, Reptiles | San Diego, CA |
| Fetchin' Retrievers Rescue | fetchinretrieversrescue.org | Dogs | Los Angeles, CA |
| Foundation for Care of Indigent Animals - FCIA | fcianimals.org | Dogs | Spring Valley, CA |
| French Bulldog Village Rescue | frenchbulldogvillage.net | Dogs | Rockaway, NJ |
| Friends for Pets Foundation | friendsforpets.org | Dogs | Sun Valley, CA |
| Friends of Ferdinand | friendsofferdinand.global | Dogs, Cats, Birds, Farm | Pauma Valley, CA |
| Frosted Faces Foundation | frostedfacesfoundation.org | Dogs | Ramona, CA |
| Furballs Furever Rescue | furballsfureverrescue.com | Dogs, Cats | Escondido, CA |
| Furever Friends Sanctuary | fureverfriendssanctuary.org | Dogs | Kenosha, |



| Rescue Groups | Website | Animal Type | Location |
|---|--|-------------|-------------------|
| Corp | | | WI |
| German Shepherd Rescue of Orange County | gsroc.org | Dogs | Newport Beach, CA |
| Girls of Dog Rescue | girlsofdogrescue.net | Dogs | Tustin, CA |
| Goatlandia Farm Animal Sanctuary | goatlandia.org | Farm | Santa Rosa, CA |
| Golden Retriever Club of Greater Los Angeles Rescue | grcglarescue.org | Dogs | Los Angeles, CA |
| Guardian Angel Pet Rescue, Inc. | guardianangelpets.com | Dogs, Cats | Calimesa, CA |
| Heart of Gold's Shelter | heartofgoldsshelter | Dogs | El Cajon, CA |
| Hedgehog Welfare Society | hedgehogwelfare.org | Exotics | Salem, OR |
| Helping Persian Cats | helpingpersiancats.org | Cats | Beverly Hills, CA |
| Hickory Level Hound Rescue | hickorylevelhoundrescue.org | Dogs | Carrollton, GA |
| Hollywood Huskies | hollywoodhuskies.org | Dogs | Studio City, CA |
| Homeward Bound California Shar Pei Rescue, Inc. | californiasharpeirescue.com | Dogs | Redding, CA |
| Hope2K9 Foundation | hope2k9.com | Dogs | Valley Center, CA |
| Horses of Tir Na Nog | horsesoftirmanog.org | Equine | San Diego, CA |
| Husky Haven | huskyhavenofla.org | Dogs | Los Angeles, CA |
| I Stand With My Pack | istandwithmypack.org | Dogs | Culver City, CA |
| Indi Lab Rescue of Social | indilabrescue.org | Dogs | Valley Glen, CA |



| Rescue Groups | Website | Animal Type | Location |
|--|--|--------------|---------------------|
| Jack Russell Rescue CA | jackrussellrescueca.org | Dogs | Moorpark, CA |
| Jackie Blue's Rescue Angels | jackie-blues-rescue-angels | Dogs | Jacumba, CA |
| JCCare and Rescue | japanesechinrescue.org | Dogs | Topeka, KS |
| Jelly's Place | jellysplace.org | Dogs, Cats | San Pablo, CA |
| JL Animal Rescue | jlanimalrescue.org | Dogs, Equine | Rancho Santa Fe, CA |
| K9 Connection Pet Re-Homing and Adoption | k9connectionpetadoption.org | Dogs | San Diego, CA |
| Kitten Rescue | kittenrescue.org | Cats | Los Angeles, CA |
| Kitten Rescue Life | kittenrescuelifelife.org | Cats | Oceanside, CA |
| Labrador Rescuers | labrescuers.org | Dogs | San Diego, CA |
| Last Chance at Life – All Breed Rescue and Adoptions | lastchanceatlife.org | Dogs, Birds | Oceanside, CA |
| Lazy Dog Rescue | lazydogrescue.net | Dogs | Hohenwald, TN |
| Leonberger Rescue Pals, Inc. | lrpals.org | Dogs | Virginia Beach, CA |
| Lionel's Legacy | lionelslegacy.org | Dogs | San Diego, CA |
| Little Angels Service Dogs | littleangelsservicedogs.org | Dogs | Jamul, CA |
| Lockwood Animal Rescue Center - LARC | lockwoodarc.org | Dogs | Frazier Park, CA |
| Love Your Feral Felines | loveyourferalfelines.com | Cats | Bonsall, CA |



| Rescue Groups | Website | Animal Type | Location |
|---|--|-------------|--------------------|
| MO Min Pin Rescue | mominpinrescue.org | Dogs | Hazelwood, MO |
| MustLuvBoxers Rescue | mustluvboxersrescue.com | Dogs | Arlington, WA |
| My Best Friend Rescue | mybestfriendrescue.org | Dogs | Trinidad, CO |
| My New Hope Foundation | mynewhopefoundation.org | Dogs | Murrieta, CA |
| Namastray | namastraysd.org | Cats | San Diego, CA |
| Nana's Haven | nanashaven.org | Dogs | St. Petersburg, FL |
| National Disaster Search Dog Foundation | searchdogfoundation.org | Dogs | Santa Paula, CA |
| New Beginnings for Animals | greatpets.org | Dogs, Cats | Mission Viejo, CA |
| No Wagging Tail Left Behind | nwtlb.org | Dogs | San Diego, CA |
| O'hana Feral Cat and Kitten TNR | OhanaFeralcatandkittenTNR | Cats | Vista, CA |
| OC Pom Rescue | ocpomrescue.com | Dogs | Placentia, CA |
| Old English Sheepdog Rescue | oesrescue.com | Dogs | Santa Monica, CA |
| One Dane at a Time | onedaneatotime.org | Dogs | Tehachapi, CA |
| One Voice 4 Paws | onevoice4paws.org | Dogs | Albany, OR |
| Operation Alpha Dog | operationalphadog.org | Dogs | San Diego, CA |
| Operation Helping Hounds | operationhelpinghounds.org | Dogs | Valley Center, CA |
| Orphan Kitten Club | orphankittenclub.org | Cats | Spring |



| Rescue Groups | Website | Animal Type | Location |
|--|--|--------------------------|-------------------------|
| | | | Valley, CA |
| Parrot Education and Adoption Center - PEAC | peac.org | Birds | San Diego, CA |
| Passion for Pitties | passionforpitties.com | Dogs | Chula Vista, CA |
| Paws4Thought Animal Rescue | paws4thoughtrescue.com | Dogs | Bonita, CA |
| Pei People Shar Pei Rescue, Inc. | peipeople.com | Dogs | Tucson, AZ |
| Performance ResQ, Inc. | performance-rescue | Dogs | Somerset, CA |
| Perrito Munguia Rescue Corporation | PMR6194817238 | Dogs | Bonita, CA |
| Pet Place International | petplaceintl.org | Dogs, Cats, Equine, Farm | Yucca Valley, CA |
| Petivity | petivity | Dogs | San Diego, CA |
| Pitbulls and Friends Dog Rescue | pitbullsandfriends.org | Dogs | San Diego, CA |
| Promise 4 Paws | promise4paws.org | Dogs | San Juan Capistrano, CA |
| Pug Rescue San Diego County | pugsandiego.com | Dogs | San Diego, CA |
| Pugs N Roses | pugsnroses.com | Dogs | San Diego, CA |
| Purebreds Plus Cat Rescue | purebredsplus.org | Cats | Davis, CA |
| Rescue Love Bulldogs | rescuelovebulldogs | Dogs | San Diego, CA |
| Rhodesian Ridgeback Rescue | ridgebackrescue.org | Dogs | Studio City, CA |



| Rescue Groups | Website | Animal Type | Location |
|--|--|---------------|-------------------|
| Ridgebacks and Friends | ridgebacksandfriends.org | Dogs | Studio City, CA |
| Ridgebacks in Need, California | rincal.org | Dogs | Grass Valley, CA |
| Road Dogs & Rescue | roadogsandrescue.org | Dogs | Lomita, CA |
| Roscoe Rescues | roscoerescues.org | Dogs | Nashville, TN |
| Rovers Retreat | roversretreat.org | Dogs | San Diego, CA |
| Russell Rescue CA | russellrescueca.com | Dogs | Lompoc, CA |
| San Diego Bull Dog Rescue | sdbbr.org | Dogs | San Diego, CA |
| San Diego Herpetological Society | sdherpsociety.org | Reptiles | San Diego, CA |
| San Diego House Rabbit Society | sandiegorabbits.org | Small Animals | San Diego, CA |
| San Diego Poodle Club Rescue | sandiegopoodleclub.org | Dogs | San Diego, CA |
| San Diego Rottweiler Rescue | sdrottweilerrescue | Dogs | Alpine, CA |
| San Diego Spaniel Rescue | sdsr.org | Dogs | San Diego, CA |
| San Diego Turtle & Tortoise Society | sdturtle.org | Reptiles | San Diego, CA |
| San Francisco SPCA | sfspca.org | Dogs, Cats | San Francisco, CA |
| Save the Dalmatians & Others Canine Rescue, Inc. | savethedals.org | Dogs | Gardena, CA |
| Save the Orphaned Pets, Inc. - STOP | petfaire.org | Cats | Chula Vista, CA |



| Rescue Groups | Website | Animal Type | Location |
|---|--|--------------------|---------------------|
| Saving Animals & Healing Hearts, Inc. | sahh4life.org | Farm, Dogs, Equine | Ramona, CA |
| Saving One Life | savingonelife.org | Cats | Vista, CA |
| Saving Pets One At A Time - SPOT | spotsavespets.org | Dogs, Cats | San Marcos, CA |
| Saving Shibas | savingshibasinc.org | Dogs | Los Alamitos, CA |
| Scottish Terrier Rescue SoCal | stccalifornia.org | Dogs | West Hills, CA |
| Scratch My Belly | scratchmybelly.org | Dogs | Rancho Santa Fe, CA |
| SD Bullies Rescue Mission | sdbrm.org | Dogs | San Diego, CA |
| SD Street Cat Society | sdstreetcatsociety | Cats | San Diego, CA |
| Second Chance Cocker Rescue, Inc. | secondchancecockerrescue.org | Dogs | Twain Harte, CA |
| Second Chance Dog Rescue | secondchancedogrescue.org | Dogs | San Diego, CA |
| Second Leash on Life | secondleashonlife.org | Dogs | San Diego, CA |
| Shamrock Rescue Foundation | shamrockrescue.org | Dogs | Santa Ana, CA |
| Sheltie Rescue Alternative, Inc. | alternativepet.net | Dogs | Van Nuys, CA |
| Small Breed Rescue of Southern California | smallbreedrescue.org | Dogs, Reptiles | Vista, CA |
| Snyder Solutions Animal Rescue & Conservation Group - SSARCG | Snyder-Solutions-Animal-Rescue-Conservation-Group | Dogs | Carefree, AZ |



| Rescue Groups | Website | Animal Type | Location |
|--|---|--------------------------|-----------------|
| South Bay Cat Adoptions | southbaycatadoptions | Cats | Chula Vista, CA |
| South Bay Dog Rescue | southbaydogrescue | Dogs, Cats | San Ysidro, CA |
| Southern California Abyssinian Rescue | socaabyrescue.com | Cats | Whittier, CA |
| Southern California Association for Miniature Potbellied Pigs - SCAMPP | scampp.com | Farm | Riverside, CA |
| Southern California Bulldog Rescue | socalbulldogrescue.org | Dogs | Santa Ana, CA |
| Southern California Dachshund Relief, Inc. | scdr.org | Dogs | La Habra, CA |
| Southern California Golden Retriever Rescue | scgrrescue.org | Dogs | Los Angeles, CA |
| Southern California Herpetology Association & Rescue | socalherpassn | Reptiles, Exotics, Birds | Buena Park, CA |
| Southern California Keeshond Rescue, Inc. | foreverkees.org | Dogs | Rhome, TX |
| Southern California Labrador Retriever Rescue | sclrr.org | Dogs | Torrance, CA |
| Southern California Shiba Inu Rescue, Inc. | shibainurescue.org | Dogs | Encino, CA |
| Southern Star Animal Rescue | southernstaranimalrescue.org | Dogs, Cats | Winchester, CA |
| Southland Collie Rescue, Inc. | collie.org | Dogs | Dana Point, CA |
| Springer Spaniel Rescue, Inc. | springerspanielrescue.org | Dogs | Las Vegas, NV |
| Sunny Oasis Rescue | sunnyoasisrescue.org | Dogs | Riverside, CA |



| Rescue Groups | Website | Animal Type | Location |
|---|--|--------------------------|-----------------------|
| Sunny Saints | sunnysaints.org | Dogs | Bellflower, CA |
| Synergy Animal Hospice | animalsynergy.org | Dogs | Vista, CA |
| Tabby Nation Cat Rescue | tabbynation.org | Cats | Escondido, CA |
| Ted's Rescue | tedsrescue.org | Dogs, Cats | San Diego, CA |
| Tender Loving Canines | tenderlovingcanines.org | Dogs | Solana Beach, CA |
| The Animal Pad | theanimalpad.org | Dogs | San Diego, CA |
| The Cantu Foundation | thecantufoundation.org | Dogs | San Diego, CA |
| The Cat Lounge Rescue & Adoption Center | thecatlounge.org | Cats | La Jolla, CA |
| The Dog Squad Rescue | dogssquadrescue.org | Dogs | San Diego, CA |
| The Gentle Barn | gentlebarn.org | Dogs, Cats, Farm, Equine | Santa Clarita, CA |
| The Mutt Scouts | muttscouts.org | Dogs | Los Angeles, CA |
| The Rescue House | rescuehouse.org | Cats | Encinitas, CA |
| The Rescued Pup | therescuedpup.com | Dogs | Ramona, CA |
| Thrive Animal Rescue | thriveanimalrescue.com | Dogs | San Diego, CA |
| Thulani Senior German Shepherd Rescue | thulanidogs.org | Dogs | San Juan Bautista, CA |
| TLC K9 Rescue | tlck9rescue.org | Dogs | Escondido, CA |



| Rescue Groups | Website | Animal Type | Location |
|---|--|---------------|----------------------|
| Too Cute Kitten Rescue | toocutekittenrescue.org | Cats | Brawley, CA |
| Tucson2tails | tucson2tails.org | Dogs, Cats | Tucson, AZ |
| United Yorkie Rescue | unitedyorkierescue.org | Dogs | Wales, WI |
| Wagging Dog Rescue | waggingdog.org | Dogs, Cats | Carlsbad, CA |
| Washington Alaskan Malamute Adoption League - WAMAL | wamal.com | Dogs | Spokane, WA |
| Wee Companions | weecompanions.org | Small Animals | San Diego, CA |
| West Coast Boxer Rescue | westcoastboxerrescue.org | Dogs | San Diego, CA |
| Westie Rescue of Orange County & Beyond | westierescueoc.com | Dogs | Huntington Beach, CA |
| Wet Noses Foster Paws | wetnosesfosterpaws.org | Dogs | Tacoma, WA |
| Whiskers Without Borders | whiskerswithoutborders | Cats | Imperial Beach, CA |
| Woof Project | woofproject.org | Dogs | Vancouver, WA |
| Woofs and Wags Dog Rescue | woofsandwagsdogrescue | Dogs | San Diego, CA |
| Yorkie Rescue of America | yorkierescueofamerica.org | Dogs | Los Angeles, CA |
| Yorkshire Terrier National Rescue | yorkierescue.com | Dogs | Oakley, CA |



EXHIBIT J
CITY OF SAN DIEGO CONTACT INFORMATION

1. **Parks and Recreation.** For operations within City parks and open space areas, the Contractor will coordinate with the Parks and Recreation Department for animal control matters such as off-leash dogs, animal waste violations, restricted parks per the San Diego Municipal Code (SDMC) (example: Mission Bay and Shoreline parks have limitations on when dogs may be present, leashed or not), and related matters.
Tim Graham
Program Coordinator – Animal Services, Parks and Recreation
619-525-8226
TGraham@sandiego.gov
2. **San Diego Police Department.** Calls from Contractor should be made to SDPD Communications.
 - a. Sworn officer calling for emergency assistance: use officer radio with access to SDPD frequency.
 - b. Request for emergency assistance (no radio available): call Desk Lead Dispatcher number at 619-685-0451.
 - c. Non-emergency calls: call Officer Inquiry number at 619-531-2050.
3. **Communications Department.** Contractor shall coordinate with the City's Communications Department on media requests per terms of the contract.
Benny Cartwright
Supervising Public Information Officer, Communications Department
619-918-5810
CartwrightB@sandiego.gov
4. **Department of Information Technology and Office of the City Treasurer.** Contractor shall immediately provide notice to the City's Information Security Officer and the Office of the City Treasurer of any unauthorized access to Contractor's payment card cardholder data.
 - a. **Department of Information Technology:**
Darren Bennett
Deputy Director, Chief Information Security Officer
619-533-4840
Dbennett@sandiego.gov
 - b. **Office of the City Treasurer**
Investment Division
619-533-6314
5. **Parks and Recreation Animal Services Program Coordinator.** The Administrator for this contract is the Animal Services Program Coordinator in the Parks and Recreation Department. The Administrator is responsible for overseeing and monitoring this Contract. All invoices, notices, facilities and maintenance requests, and legal correspondence should be issued to:
Tim Graham
Program Coordinator
Parks and Recreation Department
2130 Pan American Road
San Diego, CA 92101

EXHIBIT K
Community Engagement and Services

In addition to those Services identified in Exhibit B, the Contractor may routinely provide the City with additional “Community Engagement and Services.” The services identified below will be provided to the City at no additional charge unless otherwise specified and is subject to modification at the Contractor’s discretion based on resources and capacity. Such community engagement and additional services may include:

- Public education.
- Animal behavior modification program.
- Pet education classes.
- Community events.
- Affordable Community Veterinary assistance programs such as:
 - Spay/Neuter.
 - General medical veterinary care – preventative and basic sick care.
 - Ear cleanings
 - Nail trims
 - Bloodwork
 - Deworming
 - Wellness resources including flea medications and education.
 - Pharmacy services.
 - Vaccinations including rabies clinics
- Microchipping
- Safety net service programs.
- Owner requested euthanasia.

ATTACHMENT 1



Request for Information (RFI) for Animal Services

| | |
|---|--|
| Solicitation Number: | 10089986-23-V |
| Solicitation Issue Date: | October 20, 2022 |
| Pre-Proposal Conference: | No Pre-Proposal Conference will be held. |
| Questions and Comments Due: | October 26, 2022 @ 12:00 p.m. |
| Proposal Due Date and Time ("Closing Date"): | November 10, 2022 @ 2:00 p.m. |
| Contract Terms: | A contract will not be issued as a result of this solicitation. |
| City Contact: | Vanessa Delgado, Procurement Program Manager 1200 Third Avenue, Suite 200 San Diego, CA 92101 Cdelgado@sanidiego.gov (619) 236-6248 |
| Submissions: | Respondent is required to provide one (1) electronic copy (e.g. thumb drive or CD) of their response as described herein. |

Completed and signed RFI signature page is required, with most recent addendum listed as acknowledgement of all addenda issued.

Note: Emailed submissions will not be accepted. Due to COVID-19, electronic copies submitted through PlanetBids will be accepted. Instructions for electronic submissions are provided as an attachment in PlanetBids.

REQUEST FOR INFORMATION NUMBER (RFI) 10089986-23-V, ANIMAL SERVICES

I. INTRODUCTION

A. BACKGROUND

The City of San Diego (City) is issuing this Request for Information (RFI) to determine the availability of interested parties who possess the qualifications, capabilities, and capacity to provide animal welfare, enforcement, and related services (Animal Services) within the City of San Diego. This RFI is intended to discover all available options, responses at a minimum should include all Animal Services currently being received for the entire City jurisdiction. Proposed services may include additional services but cannot substitute Animal Services.

The City currently receives Animal Services under contract by the San Diego Humane Society. In 2018, when the City entered into the agreement with the San Diego Humane Society, the Humane Society was the only service provider with the proper credentials and qualifications to provide services within the statutes of the law. The contract is in place and will come to an end in June of 2023. As part of its due diligence process, the City is seeking information if additional qualified providers exist and if a solicitation process is to the City's benefit.

B. REQUEST FOR INFORMATION

This RFI is issued for purposes of gathering information and planning. The City does not intend to award a contract on the basis of information received in response to this RFI. The City may, in its sole discretion, consider and use the information submitted in response to this RFI in developing a competitive solicitation.

II. RFI SUBMITTAL PROCESS

A. RFI SUBMITTAL

1. Timely Submission. Responses must be submitted as described herein to the Purchasing & Contracting Department (P&C).

1.1 Reserved.

1.2 Electronic Submission Requirements. Responders must be pre-registered with the City's eBidding System and possess a system-assigned Digital ID in order to submit an electronic response.

1.3 Submittals will be received in electronic format only at the City of San Diego's eBidding System. The maximum file size of the PDF response for submission is fifty (50) megabytes. The eBidding System will close submission exactly at the date and time set forth in this RFI. An electronic copy of the firm's response must be attached to the electronic system.

1.4 Electronic Response must be submitted at the City of San Diego Vendor Portal through Bid Opportunities: <http://www.planetbids.com/portal/portal.cfm?companyID=17950> and is due no later than 2:00 P.M. on Thursday, November 10, 2022.

1.5 Electronic Response shall be signed by an individual or individuals authorized to execute legal documents on behalf of the Proposer.

1.6 The PDF response submitted shall have the following name assignment: RFI 10089986-23-V, Firm Name. That is, the RFI number(s) followed by the name of the Firm; for example – RFI 10089986-23-V, Acme Inc.

1.7 Respondents are responsible for the submission and acceptance before the closing time set forth in this RFI. Important Note: Response submission into the eBidding System may not be instantaneous; it may take time for the Respondent's document(s) to upload and transmit before the proposal is accepted. It is the Respondent's sole responsibility to ensure their document(s) are uploaded, transmitted, and arrive in time electronically. The City of San Diego shall have no responsibility for proposals that do not arrive in a timely manner, no matter what the reason.

1.8 The City's eBidding System will automatically track information submitted to the site including IP addresses, browsers being used and the URLs from which information was submitted. In addition, the City's eBidding System will keep a history of every login instance including the time of login, and other information about the user's computer configuration such as the operating system, browser type, version, and more. Because of these security features, Respondents who disable their browsers' cookies will not be able to log in and use the City's eBidding System.

1.9 Electronic Responses remain sealed until the deadline and are transmitted into the City's eBidding System via hypertext transfer protocol secure (https) mechanism using SSL 128-256-bit security certificates issued from Verisign/Thawte, which encrypts data being transferred from client to server.

1.10 The Respondent, by submitting their electronic response, agrees to and certifies under penalty of perjury under the laws of the State of California, that all information, certifications, forms, and affidavits (where applicable) submitted as part of this response are true and correct.

2. Questions and Comments. Written questions and comments must be submitted electronically via the eBidding System no later than the date specified on the eBidding System. Only written communications relative to the procurement shall be considered. The City's eBidding System is the only acceptable method for submission of questions. All questions will be answered in writing. The City will distribute questions and answers without identification of the inquirer(s) to all bidders who are on record as having received this RFI via its eBidding System. No oral communications can be relied upon for this RFI. Addenda will be issued addressing questions or comments that are determined by the City to cause a change to any part of this RFI.

3. Future Competitive Solicitations. Respondents may submit one or more proposals should the City competitively bid the goods or services described herein. Note, however, that respondents who may wish to submit a proposal in response to this RFI should first check with their legal counsel to ensure no actual or potential conflict of interest exists.

4. RFI Opening and California Public Records Act. Responses to this RFI will not be opened in public. Note, however, that any information submitted in response to a RFI is a public record subject to disclosure unless the City determines that a specific exemption in the California Public Records Act (CPRA) applies. If a Respondent submits information clearly marked confidential or proprietary, the City may protect such information and treat it with confidentiality to the extent permitted by law. However, it will be the responsibility of the Respondent to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the CPRA should the City choose to withhold such information. If the Respondent does not provide a specific and detailed legal basis for requesting the City to withhold the Respondent's confidential or proprietary information at the time a response is submitted, the City will release the information as required by the CPRA and Respondent will hold the City, its elected officials, officers, and employees harmless for release of this information. It will be the Respondent's obligation to defend, at Respondent's expense, any legal actions or challenges seeking to obtain from the City any information requested under the CPRA withheld by the City at the Respondent's request. Furthermore, the Respondent shall indemnify and hold harmless the City, its elected officials, officers, and employees from and against any claim or liability, and defend any action brought against the City, resulting from the City's refusal to release information requested under the CPRA which was withheld at Respondent's request.

B. REQUESTED INFORMATION

1. To be considered responsive, Respondents' submission must address all questions and provide all information requested in this RFI. All responses must be thorough and concise. The City encourages creativity.

2. Respondents should address any other issues related to this RFI that Respondent deems important and relevant to City's goals and objectives as described herein.

3. Respondents should address how Respondent would fulfill the City's objective of providing animal welfare, enforcement, and related services (Animal Services) to the City of San Diego in accordance with the questionnaire.

4. Respondents should describe any technical, business, legal, and/or revenue specifications City should consider when structuring a competitive solicitation that accomplishes the City's goals and objectives.

5. The City may require Respondents to interview and/or make an oral presentation.

RESPONDENT SIGNATURE IS REQUIRED

Respondent Name: _____

Address: _____

Telephone No.
and E-Mail Address: _____

Website: _____

Authorized Representative
Name and Title: _____

Representative's Original
Signature: _____

Date Signed: _____

Most Recent
Addendum Issued: _____

City of San Diego
RFI 10089986-23-V, Animal Services
Questionnaire

The City of San Diego (City) seeks to explore the marketplace for Animal Services. The City currently receives services via a service contract with the San Diego Humane Society. The City's current contract will terminate on June 30, 2023. The City's needs include a full range of Animal Services, including, but not limited to: animal safety and welfare services, shelter management, medical care, adoptions, animal related law enforcement, shelter and care due to declared emergency, and public education throughout the City. Animal safety and welfare services includes reunification of lost animals with owners and animal transfers and animal sheltering, feeding, cleaning, grooming, foster care, and animal enrichment. Medical care includes animal exams, vaccinations, dispensation of medications, disease prevention, spay or neuter surgeries, and specialty surgeries.

Interested firms/organizations should indicate their interest and capability to provide such Animal Services by responding to the questions below.

1. Is the respondent capable and interested in providing the full range of Animal Services within the geographical area of the City?
 - 1.1 If not, what services is the respondent capable and interested in providing?
 - 1.2 Does the respondent have the capacity and facilities required to support the entire jurisdiction of the City of San Diego?
 - 1.3 Does the respondent have any imminent capital projects planned to significantly expand their presence in the San Diego region?
2. Describe the respondent's ability to perform law enforcement functions related to Animal Services.
 - 2.1 What authority does the respondent have or will the respondent be able to obtain?
 - 2.2. If additional authority is required, by when can the respondent obtain it?
3. Describe the respondent's experience performing Animal Services, including detail regarding clients served and dates (by year) of services performed, and capacity.
 - 3.1 Will the respondent rely on partnerships with affiliated, reputable rescues in order to support the needs of the City? If so, please provide a full list of all rescue partnerships that are currently held.
4. Does the respondent have the means to coordinate large animal care or shelter care for animals requiring services during a declared emergency?
5. The City may wish to contact respondents for follow up discussions at a future date. If the respondent would be interested, please provide a list of contact who would be included in those discussions from the respondent's organization.

CITY OF SAN DIEGO

PURCHASING & CONTRACTING DEPARTMENT

1200 Third Avenue, Suite 200

San Diego, CA 92101-4195

Fax: (619) 236-5904

ADDENDUM A

Request for Information (RFI) 10089986-23-V

Closing Date: November 10, 2022
@ 2:00 p.m.

City of San Diego Bid to provide **Animal Services**.

The following changes to the specifications are hereby made effective as though they were originally shown and/or written:

1. Remove the original cover sheet and replace with the attached Addendum A cover sheet.
2. Remove the original RFI, Section A. RFI Submittal, 1.7 (page 2 of 4) and replace with the attached Addendum A, Section A. RFI Submittal, 1.7 (page 2 of 4). (**NOTE:** Changes are noted in **bold** fold.)

CITY OF SAN DIEGO PURCHASING & CONTRACTING DEPARTMENT

V. Delgado

Vanessa Delgado
Procurement Program Manager
(619) 236-6248



Request for Information (RFI) for Animal Services Addendum A

| | |
|---|--|
| Solicitation Number: | 10089986-23-V |
| Solicitation Issue Date: | October 20, 2022 |
| Pre-Proposal Conference: | No Pre-Proposal Conference will be held. |
| Questions and Comments Due: | October 26, 2022 @ 12:00 p.m. |
| Proposal Due Date and Time ("Closing Date"): | November 10, 2022 @ 2:00 p.m. |
| Contract Terms: | A contract will not be issued as a result of this solicitation. |
| City Contact: | Vanessa Delgado, Procurement Program Manager 1200 Third Avenue, Suite 200 San Diego, CA 92101 Cdelgado@saniego.gov (619) 236-6248 |
| Submissions: | Respondent is required to provide one (1) electronic copy (e.g. thumb drive or CD) of their response as described herein. |

Completed and signed RFI signature page is required, with most recent addendum listed as acknowledgement of all addenda issued.

Note: Emailed submissions will not be accepted. Due to COVID-19, electronic copies submitted through PlanetBids will be accepted. Instructions for electronic submissions are provided as an attachment in PlanetBids.

1.4 Electronic Response must be submitted at the City of San Diego Vendor Portal through Bid Opportunities: <http://www.planetbids.com/portal/portal.cfm?companyID=17950> and is due no later than 2:00 P.M. on Thursday, November 10, 2022.

1.5 Electronic Response shall be signed by an individual or individuals authorized to execute legal documents on behalf of the Proposer.

1.6 The PDF response submitted shall have the following name assignment: RFI 10089986-23-V, Firm Name. That is, the RFI number(s) followed by the name of the Firm; for example – RFI 10089986-23-V, Acme Inc.

1.7 Respondents are responsible for the submission and acceptance before the closing time set forth in this RFI. Important Note: Response submission into the eBidding System may not be instantaneous; it may take time for the Respondent's document(s) to upload and transmit before the proposal is accepted. It is the **Respondent's** sole responsibility to ensure their document(s) are uploaded, transmitted, and arrive in time electronically. The City of San Diego shall have no responsibility for proposals that do not arrive in a timely manner, no matter what the reason.

1.8 The City's eBidding System will automatically track information submitted to the site including IP addresses, browsers being used and the URLs from which information was submitted. In addition, the City's eBidding System will keep a history of every login instance including the time of login, and other information about the user's computer configuration such as the operating system, browser type, version, and more. Because of these security features, Respondents who disable their browsers' cookies will not be able to log in and use the City's eBidding System.

1.9 Electronic Responses remain sealed until the deadline and are transmitted into the City's eBidding System via hypertext transfer protocol secure (https) mechanism using SSL 128-256-bit security certificates issued from Verisign/Thawte, which encrypts data being transferred from client to server.

1.10 The Respondent, by submitting their electronic response, agrees to and certifies under penalty of perjury under the laws of the State of California, that all information, certifications, forms, and affidavits (where applicable) submitted as part of this response are true and correct.

2. Questions and Comments. Written questions and comments must be submitted electronically via the eBidding System no later than the date specified on the eBidding System. Only written communications relative to the procurement shall be considered. The City's eBidding System is the only acceptable method for submission of questions. All questions will be answered in writing. The City will distribute questions and answers without identification of the inquirer(s) to all bidders who are on record as having received this RFI via its eBidding System. No oral communications can be relied upon for this RFI. Addenda will be issued addressing

City of San Diego
CONTRACTOR STANDARDS
Pledge of Compliance

The City of San Diego has adopted a Contractor Standards Ordinance (CSO) codified in section 22.3004 of the San Diego Municipal Code (SDMC). The City of San Diego uses the criteria set forth in the CSO to determine whether a contractor (bidder or proposer) has the capacity to fully perform the contract requirements and the business integrity to justify the award of public funds. This completed Pledge of Compliance signed under penalty of perjury must be submitted with each bid and proposal. If an informal solicitation process is used, the bidder must submit this completed Pledge of Compliance to the City prior to execution of the contract. All responses must be typewritten or printed in ink. If an explanation is requested or additional space is required, Contractors must provide responses on Attachment A to the Pledge of Compliance and sign each page. Failure to submit a signed and completed Pledge of Compliance may render a bid or proposal non-responsive. In the case of an informal solicitation or cooperative procurement, the contract will not be awarded unless a signed and completed Pledge of Compliance is submitted. A submitted Pledge of Compliance is a public record and information contained within will be available for public review except to the extent that such information is exempt from disclosure pursuant to applicable law.

By signing and submitting this form, the contractor is certifying, to the best of their knowledge, that the contractor and any of its Principals have not within a five (5) year period – preceding this offer, been convicted of or had a civil judgement rendered against them for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) contract or subcontract.

"Principal" means an officer, director, owner, partner or a person having primary management or supervisory responsibilities within the firm. The Contractor shall provide immediate written notice to the Procurement Contracting Officer handling the solicitation, at any time prior to award should they learn that this Representations and Certifications was inaccurate or incomplete.

This form contains 10 pages, additional information may be submitted as part of Attachment A.

A. BID/PROPOSAL/SOLICITATION TITLE:

Service Agreement between the City of San Diego and San Diego Humane Society for Animal Services.

B. BIDDER/PROPOSER INFORMATION:

San Diego Humane Society and S.P.C.A.

| | | | |
|------------------------|----------------|-----|-------|
| Legal Name | San Diego | DBA | 92110 |
| 5500 Gaines Street | City | CA | State |
| Street Address | (619) 299-7012 | Zip | |
| Dr. Gary Weitzman, CEO | Phone | Fax | |
| Contact Person, Title | | | |

Provide the name, identity, and precise nature of the interest* of all persons who are directly or indirectly involved** in this proposed transaction (SDMC § 21.0103). Use additional pages if necessary.

* The precise nature of the interest includes:

- the percentage ownership interest in a party to the transaction,
- the percentage ownership interest in any firm, corporation, or partnership that will receive funds from the transaction,
- the value of any financial interest in the transaction,
- any contingent interest in the transaction and the value of such interest should the contingency be satisfied, and
- any philanthropic, scientific, artistic, or property interest in the transaction.

** Directly or indirectly involved means pursuing the transaction by:

- communicating or negotiating with City officers or employees,
- submitting or preparing applications, bids, proposals or other documents for purposes of contracting with the City, or
- directing or supervising the actions of persons engaged in the above activity.

| | |
|-----------------------------|--|
| Name | Title/Position |
| City and State of Residence | Employer (if different than Bidder/Proposer) |
| Interest in the transaction | |

| | |
|-----------------------------|--|
| Name | Title/Position |
| City and State of Residence | Employer (if different than Bidder/Proposer) |
| Interest in the transaction | |

| | |
|-----------------------------|--|
| Name | Title/Position |
| City and State of Residence | Employer (if different than Bidder/Proposer) |
| Interest in the transaction | |

| | |
|-----------------------------|--|
| Name | Title/Position |
| City and State of Residence | Employer (if different than Bidder/Proposer) |
| Interest in the transaction | |

| | |
|-----------------------------|--|
| Name | Title/Position |
| City and State of Residence | Employer (if different than Bidder/Proposer) |
| Interest in the transaction | |

| | |
|-----------------------------|--|
| Name | Title/Position |
| City and State of Residence | Employer (if different than Bidder/Proposer) |
| Interest in the transaction | |

| | |
|-----------------------------|--|
| Name | Title/Position |
| City and State of Residence | Employer (if different than Bidder/Proposer) |
| Interest in the transaction | |
| Name | Title/Position |
| City and State of Residence | Employer (if different than Bidder/Proposer) |
| Interest in the transaction | |
| Name | Title/Position |
| City and State of Residence | Employer (if different than Bidder/Proposer) |
| Interest in the transaction | |

C. OWNERSHIP AND NAME CHANGES:

1. In the past five (5) years, has your firm changed its name?
 Yes No

If **Yes**, use Attachment A to list all prior legal and DBA names, addresses, and dates each firm name was used. Explain the specific reasons for each name change.

2. Is your firm a non-profit?
 Yes No

If **Yes**, attach proof of status to this submission.

3. In the past five (5) years, has a firm owner, partner, or officer operated a similar business?
 Yes No

If **Yes**, use Attachment A to list names and addresses of all businesses and the person who operated the business. Include information about a similar business only if an owner, partner, or officer of your firm holds or has held a similar position in another firm.

D. BUSINESS ORGANIZATION/STRUCTURE:

Indicate the organizational structure of your firm. Fill in only one section on this page. Use Attachment A if more space is required.

Corporation Date incorporated: 03/10/1880 State of incorporation: California

List corporation's current officers: President: Gary Weitzman DVM, MPH, CAWA
Vice Pres: Tori Zwisler
Secretary: Sharon Blanchet, JD
Treasurer: _____

Type of corporation: C Subchapter S

Is the corporation authorized to do business in California: **Yes** **No**

If **Yes**, after what date: 04/18/1888

Is your firm a publicly traded corporation? Yes No

If Yes, how and where is the stock traded? _____

If Yes, list the name, title and address of those who own ten percent (10 %) or more of the corporation's stocks:

Do the President, Vice President, Secretary and/or Treasurer of your corporation have a third party interest or other financial interests in a business/enterprise that performs similar work, services or provides similar goods? Yes No

If Yes, please use Attachment A to disclose.

| Please list the following: | Authorized | Issued | Outstanding |
|-------------------------------------|------------|--------|-------------|
| a. Number of voting shares: | _____ | _____ | _____ |
| b. Number of nonvoting shares: | _____ | _____ | _____ |
| c. Number of shareholders: | | | _____ |
| d. Value per share of common stock: | | Par | \$ _____ |
| | | Book | \$ _____ |
| | | Market | \$ _____ |

Limited Liability Company Date formed: _____ State of formation: _____

List the name, title and address of members who own ten percent (10%) or more of the company:

Partnership Date formed: _____ State of formation: _____

List names of all firm partners:

Sole Proprietorship Date started: _____

List all firms you have been an owner, partner or officer with during the past five (5) years. Do not include ownership of stock in a publicly traded company:

Joint Venture Date formed: _____

List each firm in the joint venture and its percentage of ownership:

Note: To be responsive, each member of a Joint Venture or Partnership must complete a separate *Contractor Standards form*.

E. FINANCIAL RESOURCES AND RESPONSIBILITY:

1. Is your firm preparing to be sold, in the process of being sold, or in negotiations to be sold?
 Yes **No**

If **Yes**, use Attachment A to explain the circumstances, including the buyer's name and principal contact information.

2. In the past five (5) years, has your firm been denied bonding?
 Yes **No**

If **Yes**, use Attachment A to explain specific circumstances; include bonding company name.

3. In the past five (5) years, has a bonding company made any payments to satisfy claims made against a bond issued on your firm's behalf or a firm where you were the principal?
 Yes **No**

If **Yes**, use Attachment A to explain specific circumstances.

4. In the past five (5) years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?
 Yes **No**

If **Yes**, use Attachment A to explain specific circumstances.

5. Within the last five years, has your firm filed a voluntary petition in bankruptcy, been adjudicated bankrupt, or made a general assignment for the benefit of creditors?
 Yes **No**

If **Yes**, use Attachment A to explain specific circumstances.

6. Are there any claims, liens or judgements that are outstanding against your firm?
 Yes **No**

If **Yes**, please use Attachment A to provide detailed information on the action.

7. Please provide the name of your principal financial institution for financial reference. By submitting a response to this Solicitation Contractor authorizes a release of credit information for verification of financial responsibility.

Name of Bank: First Republic Bank

Point of Contact: Mary Jo Bayard

Address: 1280 4th Avenue, San Diego, CA 92101

Phone Number: (619) 338-1540

8. By submitting a response to a City solicitation, Contractor certifies that he or she has sufficient operating capital and/or financial reserves to properly fund the requirements identified in the solicitation. At City's request, Contractor will promptly provide to City

a copy of Contractor's most recent balance sheet and/or other necessary financial statements to substantiate financial ability to perform.

9. In order to do business in the City of San Diego, a current Business Tax Certificate is required. Business Tax Certificates are issued by the City Treasurer's Office. If you do not have one at the time of submission, one must be obtained prior to award.

Business Tax Certificate No.: B2021010240 Year Issued: 2023

F. PERFORMANCE HISTORY:

1. In the past five (5) years, has your firm been found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for defaulting or breaching a contract with a government agency?

Yes No

If **Yes**, use Attachment A to explain specific circumstances.

2. In the past five (5) years, has a public entity terminated your firm's contract for cause prior to contract completion?

Yes No

If **Yes**, use Attachment A to explain specific circumstances and provide principal contact information.

3. In the past five (5) years, has your firm entered into any settlement agreement for any lawsuit that alleged contract default, breach of contract, or fraud with or against a public entity?

Yes No

If **Yes**, use Attachment A to explain specific circumstances.

4. Is your firm currently involved in any lawsuit with a government agency in which it is alleged that your firm has defaulted on a contract, breached a contract, or committed fraud?

Yes No

If **Yes**, use Attachment A to explain specific circumstances.

5. In the past five (5) years, has your firm, or any firm with which any of your firm's owners, partners, or officers is or was associated, been debarred, disqualified, removed, or otherwise prevented from bidding on or completing any government or public agency contract for any reason?

Yes No

If **Yes**, use Attachment A to explain specific circumstances.

6. In the past five (5) years, has your firm received a notice to cure or a notice of default on a contract with any public agency?

Yes No

If **Yes**, use Attachment A to explain specific circumstances and how the matter resolved.

7. Performance References:

Please provide a minimum of three (3) references familiar with work performed by your firm which was of a similar size and nature to the subject solicitation within the last five (5) years.

Please note that any references required as part of your bid/proposal submittal are in addition to those references required as part of this form.

Company Name: City of Santee

Contact Name and Phone Number: Kathy Valverde 619-258-4100 ext. 193

Contact Email: kvalverde@cityofsanteeca.gov

Address: 10601 Magnolia Avenue, Santee, CA 92071

Contract Date: July 1, 2018

Contract Amount: \$ 441,528.00

Requirements of Contract: Animal Services

Company Name: City of Poway

Contact Name and Phone Number: Roger Morrison 858-668-4581

Contact Email: rmorrison@poway.org

Address: 1332 Civic Center Drive, Poway, CA 92064

Contract Date: July 1, 2014

Contract Amount: \$ 241,968.00

Requirements of Contract: Animal Services

Company Name: City of Oceanside

Contact Name and Phone Number: Vicki Gutierrez 760-435-5014

Contact Email: vgutierrez@oceansideca.org

Address: 300 North Coast Highway, Oceanside, CA 92054

Contract Date: July 1, 2013

Contract Amount: \$ 1,923,444.00

Requirements of Contract: Animal Services

G. COMPLIANCE:

1. In the past five (5) years, has your firm or any firm owner, partner, officer, executive, or manager been criminally penalized or found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for violating any federal, state, or local law in performance of a contract, including but not limited to, laws regarding health and safety, labor and employment, permitting, and licensing laws?

Yes No

If **Yes**, use Attachment A to explain specific circumstances surrounding each instance. Include the name of the entity involved, the specific infraction(s) or violation(s), dates of instances, and outcome with current status.

2. In the past five (5) years, has your firm been determined to be non-responsible by a public entity?

Yes No

If **Yes**, use Attachment A to explain specific circumstances of each instance. Include the name of the entity involved, the specific infraction, dates, and outcome.

H. BUSINESS INTEGRITY:

1. In the past five (5) years, has your firm been convicted of or found liable in a civil suit for making a false claim or material misrepresentation to a private or public entity?
 Yes **No**

If **Yes**, use Attachment A to explain specific circumstances of each instance. Include the entity involved, specific violation(s), dates, outcome and current status.

2. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a crime, including misdemeanors, or been found liable in a civil suit involving the bidding, awarding, or performance of a government contract?
 Yes **No**

If **Yes**, use Attachment A to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

3. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a federal, state, or local crime of fraud, theft, or any other act of dishonesty?
 Yes **No**

If **Yes**, use Attachment A to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

4. Do any of the Principals of your firm have relatives that are either currently employed by the City or were employed by the City in the past five (5) years?
 Yes **No**

If **Yes**, please disclose the names of those relatives in Attachment A.

I. BUSINESS REPRESENTATION:

1. Are you a local business with a physical address within the County of San Diego?
 Yes **No**

2. Are you a certified Small and Local Business Enterprise certified by the City of San Diego?
 Yes **No**

Certification # _____

3. Are you certified as any of the following:
a. Disabled Veteran Business Enterprise Certification # _____
b. Woman or Minority Owned Business Enterprise Certification # _____
c. Disadvantaged Business Enterprise Certification # _____

J. WAGE COMPLIANCE:

In the past five (5) years, has your firm been required to pay back wages or penalties for failure to comply with the federal, state or local **prevailing, minimum, or living wage laws**? **Yes** **No** If **Yes**, use Attachment A to explain the specific circumstances of each instance. Include the entity involved, the specific infraction(s), dates, outcome, and current status.

By signing this Pledge of Compliance, your firm is certifying to the City that you will comply with the requirements of the Equal Pay Ordinance set forth in SDMC sections 22.4801 through 22.4809.

K. STATEMENT OF SUBCONTRACTORS & SUPPLIERS:

Please provide the names and information for all subcontractors and suppliers used in the performance of the proposed contract, and what portion of work will be assigned to each subcontractor. Subcontractors may not be substituted without the written consent of the City. Use Attachment A if additional pages are necessary. If no subcontractors or suppliers will be used, please write "Not Applicable."

Company Name: Not applicable

Address: _____

Contact Name: _____ Phone: _____ Email: _____

Contractor License No.: _____ DIR Registration No.: _____

Sub-Contract Dollar Amount: \$ _____ (per year) \$ _____ (total contract term)

Scope of work subcontractor will perform: _____

Identify whether company is a subcontractor or supplier: _____

Certification type (check all that apply): DBE DVBE ELBE MBE SLBE WBE Not Certified

Contractor must provide valid proof of certification with the response to the bid or proposal to receive participation credit.

Company Name: _____

Address: _____

Contact Name: _____ Phone: _____ Email: _____

Contractor License No.: _____ DIR Registration No.: _____

Sub-Contract Dollar Amount: \$ _____ (per year) \$ _____ (total contract term)

Scope of work subcontractor will perform: _____

Identify whether company is a subcontractor or supplier: _____

Certification type (check all that apply): DBE DVBE ELBE MBE SLBE WBE Not Certified

Contractor must provide valid proof of certification with the response to the bid or proposal to receive participation credit.

L. STATEMENT OF AVAILABLE EQUIPMENT:

A full inventoried list of all necessary equipment to complete the work specified may be a requirement of the bid/proposal submission.

By signing and submitting this form, the Contractor certifies that all required equipment included in this bid or proposal will be made available one week (7 days) before work shall commence. In instances where the required equipment is not owned by the Contractor, Contractor shall explain how the equipment will be made available before the commencement of work. The City of San

Diego reserves the right to reject any response, in its opinion, if the Contractor has not demonstrated he or she will be properly equipped to perform the work in an efficient, effective matter for the duration of the contract period.

M. TYPE OF SUBMISSION: This document is submitted as:

- Initial submission of *Contractor Standards Pledge of Compliance*
- Initial submission of *Contractor Standards Pledge of Compliance* as part of a Cooperative agreement
- Initial submission of *Contractor Standards Pledge of Compliance* as part of a Sole Source agreement
- Update of prior *Contractor Standards Pledge of Compliance* dated 10/31/2019.

Complete all questions and sign below.

Under penalty of perjury under the laws of the State of California, I certify that I have read and understand the questions contained in this Pledge of Compliance, that I am responsible for completeness and accuracy of the responses contained herein, and that all information provided is true, full and complete to the best of my knowledge and belief. I agree to provide written notice to the Purchasing Agent within five (5) business days if, at any time, I learn that any portion of this Pledge of Compliance is inaccurate. Failure to timely provide the Purchasing Agent with written notice is grounds for Contract termination.

I, on behalf of the firm, further certify that I and my firm will comply with the following provisions of SDMC section 22.3004:

- (a) I and my firm will comply with all applicable local, State and Federal laws, including health and safety, labor and employment, and licensing laws that affect the employees, worksite or performance of the contract.
- (b) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of receiving notice that a government agency has begun an investigation of me or my firm that may result in a finding that I or my firm is or was not in compliance with laws stated in paragraph (a).
- (c) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of a finding by a government agency or court of competent jurisdiction of a violation by the Contractor of laws stated in paragraph (a).
- (d) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of becoming aware of an investigation or finding by a government agency or court of competent jurisdiction of a violation by a subcontractor of laws stated in paragraph (a).
- (e) I and my firm will cooperate fully with the City during any investigation and to respond to a request for information within ten (10) working days.

Failure to sign and submit this form with the bid/proposal shall make the bid/proposal non-responsive. In the case of an informal solicitation, the contract will not be awarded unless a signed and completed *Pledge of Compliance* is submitted.

| | | |
|-----------------------------|--|-------------------|
| Michael E. Lowry CFO | Michael E. Lowry <small>Digitally signed by Michael E. Lowry Date: 2023.04.10 20:13:56 -07'00'</small> | 04/10/2023 |
| Name and Title | Signature | Date |

City of San Diego
CONTRACTOR STANDARDS
Attachment "A"

Provide additional information in space below. Use additional Attachment "A" pages as needed. Each page must be signed. Print in ink or type responses and indicate question being answered.

E. 4. Our understanding is the carriers that decided to not renew coverage were either leaving the state or decided to move away from the animal welfare industry.

E. 6. As with organizations the size of SDHS, legal matters arise from time to time in the ordinary course of business. Management and legal counsel do not believe that the resolution of any of these matters would have a material impact on SDHS's financial position. SDHS will also have liens outstanding related to construction being performed by subcontractors. SDHS monitors those liens and ensures their release upon payment by the contractor.

I have read the matters and statements made in this Contractor Standards Pledge of Compliance and attachments thereto and I know the same to be true of my own knowledge, except as to those matters stated upon information or belief and as to such matters, I believe the same to be true. I certify under penalty of perjury that the foregoing is true and correct.

Michael E. Lowry CFO

Print Name, Title

Michael E. Lowry

Signature

Digitally signed by Michael E.
Lowry
Date: 2023.04.10 20:15:10 -07'00'

04/10/2023

Date

EQUAL OPPORTUNITY CONTRACTING (EOC)
1200 Third Avenue, Suite 200 • San Diego, CA 92101
Phone: (619) 236-6000 • Fax: (619) 236-5904

WORK FORCE REPORT

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

**NO OTHER FORMS WILL BE ACCEPTED
CONTRACTOR IDENTIFICATION**

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: San Diego Humane Society and SPCA

ADA/DBA: San Diego Humane Society

Address (Corporate Headquarters, where applicable): 5500 Gaines Street

City: San Diego County: San Diego State: CA Zip: 92110

Telephone Number: 619-299-7012 Fax Number: _____

Name of Company CEO: Gary Weitzman, DVM

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 1373 N. Marshall Ave/3500 Burnet Dr/2905 San Luis Rd/572 Airport Rd/18740 Highland Valley Rd

City: ElCajon/Escond/Oceans/Ramon County: San Diego State: CA Zip: 92020/9

Telephone Number: 619-299-7012 Fax Number: _____ Email: _____

Type of Business: Animal Shelter Type of License: _____

The Company has appointed: Tina Nguyen, VP of Employee Engagement

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 5500 Gaines Street, San Diego, CA, 92110

Telephone Number: 619-299-7012 x2215 Fax Number: 619-299-0108 Email: tnguyen@sdhumane.org

- One San Diego County (or Most Local County) Work Force - Mandatory
- Branch Work Force *
- Managing Office Work Force

Check the box above that applies to this WFR.

**Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of San Diego Humane Society and SPCA
(Firm Name)

San Diego, California hereby certify that information provided
(County) (State)

herein is true and correct. This document was executed on this 07 day of April, 2023

Tina Nguyen
Digitally signed by Tina Nguyen
Date: 2023.04.07 11:09:36 -0700
(Authorized Signature)

Tina Nguyen
Digitally signed by Tina Nguyen
Date: 2023.04.07 11:10:07 -0700
(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: San Diego Humane Society and SPCA

DATE: 04/07/2023

OFFICE(S) or BRANCH(ES): _____

COUNTY: San Diego

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black or African-American
- (2) Hispanic or Latino
- (3) Asian
- (4) American Indian or Alaska Native
- (5) Native Hawaiian or Pacific Islander
- (6) White
- (7) Other race/ethnicity; not falling into other groups

Definitions of the race and ethnicity categories can be found on Page 4

| ADMINISTRATION OCCUPATIONAL CATEGORY | (1) Black or African American | | (2) Hispanic or Latino | | (3) Asian | | (4) American Indian/ Nat. Alaskan | | (5) Pacific Islander | | (6) White | | (7) Other Race/ Ethnicity | |
|---|--|-----|------------------------------|-----|--------------|-----|--|-----|----------------------------|-----|--------------|-----|---------------------------------|-----|
| | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) |
| Management & Financial | | 1 | 2 | 5 | 1 | 2 | | | | 1 | 11 | 45 | 1 | 3 |
| Professional | | | | 3 | 3 | 1 | | | | | 10 | 28 | | 2 |
| A&E, Science, Computer | | | | | | | | | | | | | | |
| Technical | | | 4 | 15 | | 2 | | | | | | 24 | | 4 |
| Sales | 1 | | 3 | 21 | | 2 | | 1 | | | | 16 | 1 | 2 |
| Administrative Support | | 3 | | 20 | 1 | 2 | | | | | 7 | 46 | | 2 |
| Services | 1 | 2 | 12 | 37 | | 2 | | | | 2 | 9 | 46 | 2 | 6 |
| Crafts | | | | | | | | | | | | | | |
| Operative Workers | | | | | | | | | | | | | | |
| Transportation | | | | | | | | | | | | | | |
| Laborers* | 1 | 6 | 13 | 39 | 3 | 8 | | 1 | 1 | 1 | 20 | 106 | 2 | 9 |

*Construction laborers and other field employees are not to be included on this page

| | | | | | | | | | | | | | | |
|--------------------|---|----|----|-----|---|----|--|---|---|---|----|-----|---|----|
| Totals Each Column | 3 | 12 | 34 | 140 | 8 | 19 | | 2 | 1 | 4 | 57 | 311 | 6 | 28 |
|--------------------|---|----|----|-----|---|----|--|---|---|---|----|-----|---|----|

Grand Total All Employees 625

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

| | | | | | | | | | | | | | | |
|----------|--|--|---|---|--|---|--|--|--|--|---|----|--|---|
| Disabled | | | 2 | 6 | | 2 | | | | | 1 | 16 | | 1 |
|----------|--|--|---|---|--|---|--|--|--|--|---|----|--|---|

Non-Profit Organizations Only:

| | | | | | | | | | | | | | | |
|--------------------|--|--|---|--|---|--|--|--|--|--|---|----|--|--|
| Board of Directors | | | 1 | | 1 | | | | | | 7 | 10 | | |
| Volunteers | | | | | | | | | | | | | | |
| Artists | | | | | | | | | | | | | | |

WORK FORCE REPORT – Page 3

NAME OF FIRM: San Diego Humane Society and SPCA

DATE: 04/07/2023

OFFICE(S) or BRANCH(ES): _____

COUNTY: San Diego

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black or African-American
- (2) Hispanic or Latino
- (3) Asian
- (4) American Indian or Alaska Native
- (5) Native Hawaiian or Pacific Islander
- (6) White
- (7) Other race/ethnicity; not falling into other groups

Definitions of the race and ethnicity categories can be found on Page 4

| TRADE OCCUPATIONAL CATEGORY | (1) Black or African American | | (2) Hispanic or Latino | | (3) Asian | | (4) American Indian/ Nat. Alaskan | | (5) Pacific Islander | | (6) White | | (7) Other Race/ Ethnicity | |
|--|--|-----|------------------------------|-----|--------------|-----|---|-----|----------------------------|-----|--------------|-----|---------------------------------|-----|
| | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) |
| Brick, Block or Stone Masons | | | | | | | | | | | | | | |
| Carpenters | | | | | | | | | | | | | | |
| Carpet, Floor & Tile Installers Finishers | | | | | | | | | | | | | | |
| Cement Masons, Concrete Finishers | | | | | | | | | | | | | | |
| Construction Laborers | | | | | | | | | | | | | | |
| Drywall Installers, Ceiling Tile Inst | | | | | | | | | | | | | | |
| Electricians | | | | | | | | | | | | | | |
| Elevator Installers | | | | | | | | | | | | | | |
| First-Line Supervisors/Managers | | | | | | | | | | | | | | |
| Glaziers | | | | | | | | | | | | | | |
| Helpers; Construction Trade | | | | | | | | | | | | | | |
| Millwrights | | | | | | | | | | | | | | |
| Misc. Const. Equipment Operators | | | | | | | | | | | | | | |
| Painters, Const. & Maintenance | | | | | | | | | | | | | | |
| Pipelayers, Plumbers, Pipe & Steam Fitters | | | | | | | | | | | | | | |
| Plasterers & Stucco Masons | | | | | | | | | | | | | | |
| Roofers | | | | | | | | | | | | | | |
| Security Guards & Surveillance Officers | | | | | | | | | | | | | | |
| Sheet Metal Workers | | | | | | | | | | | | | | |
| Structural Metal Fabricators & Fitters | | | | | | | | | | | | | | |
| Welding, Soldering & Brazing Workers | | | | | | | | | | | | | | |
| Workers, Extractive Crafts, Miners | | | | | | | | | | | | | | |
| Totals Each Column | | | | | | | | | | | | | | |
| Grand Total All Employees | | | | | | | | | | | | | | |
| Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled: | | | | | | | | | | | | | | |
| Disabled | | | | | | | | | | | | | | |

Work Force Report

HISTORY

The Work Force Report (WFR) is the document that allows the City of San Diego to analyze the work forces of all firms wishing to do business with the City. We are able to compare the firm's work force data to County Labor Force Availability (CLFA) data derived from the United States Census. CLFA data is a compilation of lists of occupations and includes the percentage of each ethnicity we track (American Indian or Alaska Native, Asian, Black or African-American, Native Hawaiian or Pacific Islander, White, and Other) for each occupation. Currently, our CLFA data is taken from the 2010 Census. In order to compare one firm to another, it is important that the data we receive from the consultant firm is accurate and organized in the manner that allows for this fair comparison.

WORK FORCE & BRANCH WORK FORCE REPORTS

When submitting a WFR, especially if the WFR is for a specific project or activity, we would like to have information about the firm's work force that is actually participating in the project or activity. That is, if the project is in San Diego and the work force is from San Diego, we want a San Diego County Work Force Report¹. By the same token, if the project is in San Diego, but the work force is from another county, such as Orange or Riverside County, we want a Work Force Report from that county². If participation in a San Diego project is by work forces from San Diego County and, for example, from Los Angeles County and from Sacramento County, we ask for separate Work Force Reports representing your firm from each of the three counties.

MANAGING OFFICE WORK FORCE

Equal Opportunity Contracting may occasionally ask for a Managing Office Work Force (MOWF) Report. This may occur in an instance where the firm involved is a large national or international firm but the San Diego or other local work force is very small. In this case, we may ask for both a local and a MOWF Report^{1,3}. In another case, when work is done only by the Managing Office, only the MOWF Report may be necessary.³

TYPES OF WORK FORCE REPORTS:

Please note, throughout the preceding text of this page, the superscript numbers one ¹, two ² & three ³. These numbers coincide with the types of work force report required in the example. See below:

- ¹ One San Diego County (or Most Local County) Work Force – Mandatory in most cases
- ² Branch Work Force *
- ³ Managing Office Work Force

**Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

RACE/ETHNICITY CATEGORIES

American Indian or Alaska Native – A person having origins in any of the peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

Asian – A person having origins in any of the peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American – A person having origins in any of the Black racial groups of Africa.

Native Hawaiian or Pacific Islander – A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White – A person having origins in any of the peoples of Europe, the Middle East, or North Africa.

Hispanic or Latino – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin.

Exhibit A: Work Force Report Job Categories – Administration

Refer to this table when completing your firm's Work Force Report form(s).

Management & Financial

Advertising, Marketing, Promotions, Public Relations, and Sales Managers
Business Operations Specialists
Financial Specialists
Operations Specialties Managers
Other Management Occupations
Top Executives

Professional

Art and Design Workers
Counselors, Social Workers, and Other Community and Social Service Specialists
Entertainers and Performers, Sports and Related Workers
Health Diagnosing and Treating Practitioners
Lawyers, Judges, and Related Workers
Librarians, Curators, and Archivists
Life Scientists
Media and Communication Workers
Other Teachers and Instructors
Postsecondary Teachers
Primary, Secondary, and Special Education School Teachers
Religious Workers
Social Scientists and Related Workers

Architecture & Engineering, Science, Computer

Architects, Surveyors, and Cartographers
Computer Specialists
Engineers
Mathematical Science Occupations
Physical Scientists

Technical

Drafters, Engineering, and Mapping Technicians
Health Technologists and Technicians
Life, Physical, and Social Science Technicians
Media and Communication Equipment Workers

Sales

Other Sales and Related Workers
Retail Sales Workers
Sales Representatives, Services
Sales Representatives, Wholesale and Manufacturing
Supervisors, Sales Workers

Administrative Support

Financial Clerks
Information and Record Clerks
Legal Support Workers

Material Recording, Scheduling, Dispatching, and Distributing Workers
Other Education, Training, and Library Occupations
Other Office and Administrative Support Workers
Secretaries and Administrative Assistants
Supervisors, Office and Administrative Support Workers

Services

Building Cleaning and Pest Control Workers
Cooks and Food Preparation Workers
Entertainment Attendants and Related Workers
Fire Fighting and Prevention Workers
First-Line Supervisors/Managers, Protective Service Workers
Food and Beverage Serving Workers
Funeral Service Workers
Law Enforcement Workers
Nursing, Psychiatric, and Home Health Aides
Occupational and Physical Therapist Assistants and Aides
Other Food Preparation and Serving Related Workers
Other Healthcare Support Occupations
Other Personal Care and Service Workers
Other Protective Service Workers
Personal Appearance Workers
Supervisors, Food Preparation and Serving Workers
Supervisors, Personal Care and Service Workers
Transportation, Tourism, and Lodging Attendants

Crafts

Construction Trades Workers
Electrical and Electronic Equipment Mechanics, Installers, and Repairers
Extraction Workers
Material Moving Workers
Other Construction and Related Workers
Other Installation, Maintenance, and Repair Occupations
Plant and System Operators
Supervisors of Installation, Maintenance, and Repair Workers
Supervisors, Construction and Extraction Workers
Vehicle and Mobile Equipment Mechanics,

Installers, and Repairers
Woodworkers

Operative Workers

Assemblers and Fabricators
Communications Equipment Operators
Food Processing Workers
Metal Workers and Plastic Workers
Motor Vehicle Operators
Other Production Occupations
Printing Workers
Supervisors, Production Workers
Textile, Apparel, and Furnishings Workers

Transportation

Air Transportation Workers
Other Transportation Workers
Rail Transportation Workers
Supervisors, Transportation and Material
Moving Workers
Water Transportation Workers

Laborers

Agricultural Workers
Animal Care and Service Workers
Fishing and Hunting Workers
Forest, Conservation, and Logging Workers
Grounds Maintenance Workers
Helpers, Construction Trades
Supervisors, Building and Grounds Cleaning
and Maintenance Workers
Supervisors, Farming, Fishing, and Forestry
Workers

Exhibit B: Work Force Report Job Categories-Trade

Brick, Block or Stone Masons
Brickmasons and Blockmasons
Stonemasons

Carpenters

Carpet, floor and Tile Installers and Finishers
Carpet Installers
Floor Layers, except Carpet, Wood and Hard
Tiles
Floor Sanders and Finishers
Tile and Marble Setters

Cement Masons, Concrete Finishers
Cement Masons and Concrete Finishers
Terrazzo Workers and Finishers

Construction Laborers

Drywall Installers, Ceiling Tile Inst
Drywall and Ceiling Tile Installers
Tapers

Electricians

Elevator Installers and Repairers

First-Line Supervisors/Managers
First-line Supervisors/Managers of
Construction Trades and Extraction Workers

Glaziers

Helpers, Construction Trade
Brickmasons, Blockmasons, and Tile and
Marble Setters
Carpenters
Electricians
Painters, Paperhangers, Plasterers and Stucco
Pipelayers, Plumbers, Pipefitters and
Steamfitters
Roofers
All other Construction Trades

Millwrights

Heating, Air Conditioning and Refrigeration
Mechanics and Installers
Mechanical Door Repairers
Control and Valve Installers and Repairers
Other Installation, Maintenance and Repair
Occupations

Misc. Const. Equipment Operators

Paving, Surfacing and Tamping Equipment
Operators
Pile-Driver Operators
Operating Engineers and Other Construction
Equipment Operators

Painters, Const. Maintenance

Painters, Construction and Maintenance
Paperhangers

Pipelayers and Plumbers

Pipelayers
Plumbers, Pipefitters and Steamfitters

Plasterers and Stucco Masons**Roofers****Security Guards & Surveillance Officers****Sheet Metal Workers****Structural Iron and Steel Workers****Welding, Soldering and Brazing Workers**

Welders, Cutter, Solderers and Brazers
Welding, Soldering and Brazing Machine
Setter, Operators and Tenders

Workers, Extractive Crafts, Miners

**LIVING WAGE ORDINANCE
 CERTIFICATION OF COMPLIANCE**
 REQUIRED BY SAN DIEGO MUNICIPAL CODE §22.4225(c)

COMPANY INFORMATION

Company Name: San Diego Humane Society and SPCA
 Company Address: 5500 Gaines Street, San Diego, CA 92110
 Company Contact Name: Tina Nguyen Contact Phone: 619-299-7012

CONTRACT INFORMATION

Contract Number (if no number, state location): RR-311732-1 Start Date: 07/01/2018
 Contract Title (or description): Service Agreement b/t City of SD and SD Humane Society End Date: 06/30/23
 Purpose/Service Provided: Animal Services

TERMS OF COMPLIANCE

A contractor or subcontractor working on or under the authority of an agreement subject to the Living Wage Ordinance [LWO] must comply with all applicable provisions unless specifically approved for an exemption. Basic requirements of the LWO are:

- (a) Pay covered employees the current fiscal year hourly wage rate;
- (b) If any lesser amount is applied toward the health benefits rate, add this difference to the hourly wage rate as cash;
- (c) Provide minimum of 80 compensated leave hours per year for illness, vacation, or personal need at the employee's request and permit 80 additional unpaid leave hours for personal or family illness when accrued compensated leave hours have been used;
- (d) Annually distribute a notice with the first paycheck after July 1 to inform all covered employees of LWO requirements, their possible right to Federal Earned Income Tax Credit, and possible availability of health insurance coverage under the Affordable Care Act;
- (e) Prohibit retaliation against any covered employee who alleges noncompliance with the requirements of the LWO;
- (f) Permit access for authorized City representatives to work sites and records to review compliance with the LWO; and
- (g) Maintain wage and benefit records for covered employees for 3 years after final payment.

If a subcontractor fails to submit this completed form, the prime contractor may be found in violation of the LWO for failure to ensure its subcontractor's compliance. This may result in a withholding of payments or termination of the agreement.

CONTRACTOR CERTIFICATION

By signing, the contractor certifies under penalty of perjury under laws of the State of California to the following:

- (a) comply with the requirements of the Living Wage Ordinance; and
- (b) will perform at least fifty percent (50%) of the work with its own employees.

| | |
|---|---|
| Tina Nguyen Name of Signatory Digitally signed by Tina Nguyen Date: 2023.04.07 11:13:47 -07'00' Signature | VP of Employee Engagement Title of Signatory 04/07/2023 Date |
|---|---|

FOR OFFICIAL CITY USE ONLY

Date of Receipt: LWO Analyst: Contract Number:

SS#4528_SDHS Animal Services Agreement_1

Final Audit Report

2023-04-27

| | |
|-----------------|--|
| Created: | 2023-04-24 |
| By: | Vanessa Delgado (CDelgado@sandiego.gov) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAH3ZJR1nJvf80RQQ5yJ8ivErO4XpHXYbF |

"SS#4528_SDHS Animal Services Agreement_1" History

-  Document created by Vanessa Delgado (CDelgado@sandiego.gov)
2023-04-24 - 8:51:52 PM GMT- IP address: 137.83.224.177
-  Document emailed to gweitzman@sdhumane.org for signature
2023-04-24 - 8:55:17 PM GMT
-  Email viewed by gweitzman@sdhumane.org
2023-04-24 - 8:56:43 PM GMT- IP address: 104.28.111.142
-  Email viewed by gweitzman@sdhumane.org
2023-04-25 - 11:09:11 PM GMT- IP address: 204.68.124.54
-  Email viewed by gweitzman@sdhumane.org
2023-04-26 - 10:53:10 PM GMT- IP address: 172.226.6.17
-  Signer gweitzman@sdhumane.org entered name at signing as Gary Weitzman
2023-04-27 - 4:12:19 AM GMT- IP address: 98.176.52.93
-  Document e-signed by Gary Weitzman (gweitzman@sdhumane.org)
Signature Date: 2023-04-27 - 4:12:21 AM GMT - Time Source: server- IP address: 98.176.52.93
-  Agreement completed.
2023-04-27 - 4:12:21 AM GMT