

SECOND AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT
FOR ANIMAL SHELTER SERVICES

THIS SECOND AMENDMENT is made and entered into this June ___, 2013, by and between the CITY OF COSTA MESA, a California municipal corporation ("City") and ORANGE COUNTY HUMANE SOCIETY, a nonprofit organization ("Consultant"). The abovementioned parties being hereinafter collectively referred to as the "Parties".

Recitals

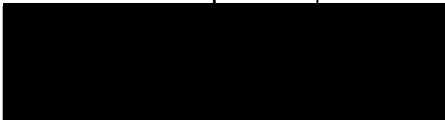
- A. City entered into an Agreement with Consultant on January 20th, 2009, to provide animal shelter services (the "Agreement"); and
- B. The term of the Agreement expired on June 30, 2012; and
- C. The Agreement contained a provision for 2 additional 1 year extensions at City's option; and
- D. City exercised its first option by entering into a First Amendment to the Agreement extending the term of the Agreement to June 30, 2013; and

NOW, THEREFORE, in consideration of the mutual terms and conditions set forth in the Agreement, the Parties hereby amend the Agreement as follows:

- 1. Section 4.1 of the Agreement is amended to extend the term of the Agreement to June 30, 2014, exercising City'.
- 2. All other provisions of the Agreement shall remain in full force and effect. This Amendment with the Agreement shall be construed together and shall constitute one Agreement.

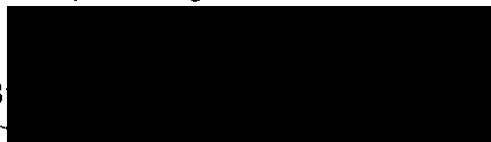
IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by and through their respective authorized officers, as of the date first above written.

Customer:
CITY OF COSTA MESA,
A Municipal Corporation



Tom Hatch, Chief Executive Officer

Consultant:
ORANGE COUNTY HUMANE SOCIETY
A Nonprofit Organization

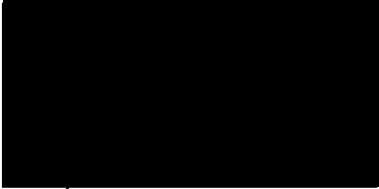


B

Chief officer
Title

6/13/13
Dated

6/27/13
Dated


Attorney

Approved as to Content:

Project Manager

6/13/13
Dated

6/24/13
Dated



Proposal for Animal Control Services
City of Westminster

Orange County Humane Society has been providing Animal Control service since 1989. Our facility has provided care and shelter for each animal that has come in stray, unwanted or seized. Every animal brought in through animal control or has been dropped off from a residence has been accepted by our facility.

We take care of them medically and provide them with shelter until adopted. Each of the animals are provided for until adopted unless vicious, terminally ill or deemed unadoptable.

Our facility has a veterinarian available 7 days a week. Our new computer program enables our staff to provide up to date information about each of the animals brought in and provide monthly reports on each animal.

Our shelter renovations are 95% completed, and we will soon provide for you and the public a new updated facility. Our experience with your agency and our new facility makes our organization the best choice for your animal control services.

We provide medications and sedatives for your officers as needed.

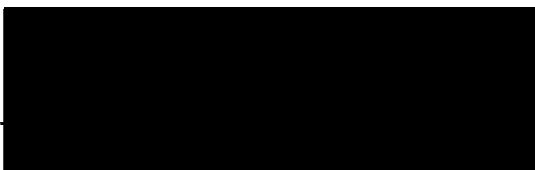
Fee Proposal From 7/1/2013 To 6/30/2014

Detailed Description	Cost	Annual Cost
Animal shelter services for 800 animals per year		
Additional animals over 800 per year*	\$20.00/ additional pet	
Extension of 5 day holding period	\$7.00/dog \$5.00/cat each additional day	

- Maximum of \$73157.97 per year. Monthly payment is 6096.49

The proposal is for a contract term of one year ,commencing July 1,2013,and terminating June 30, 2014

714-642-5722 (C)



By: _____

Manual Purchase Order



City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
(714) 754-5227

Purchase Order	Date	Revision	Page
CITY 999-1215	07/16/12	1	1
Payment Terms	Freight Terms	Ship Via	
N30	DEST	VDR	

Buyer: Don Stocker (714) 754-5212

VENDOR: 0000003442
ORANGE COUNTY HUMANE SOCIETY
Attn: Debbie Gonzales
4906 W. First St.
Santa Ana, CA 92703
FAX: (714) 210-2888

Ship To: City of Costa Mesa
Police Department
99 Fair Drive
Costa Mesa, CA 92627

Bill To: City of Costa Mesa
Attn: **Accounts Payable**
P.O. Box 1200
Costa Mesa, CA 92628-1200

PSA AMENDMENT #1 AND CHANGE ORDER #1 ISSUED TO EXTEND THE PROFESSIONAL SERVICES AGREEMENT FOR ANIMAL SHELTER SERVICES PER SCOPE OF SERVICES PROVIDED ON PAGE 11 OF THE PSA DATED JANUARY 20, 2009 FOR AN ADDITIONAL ONE-YEAR PERIOD.

Period-Of-Performance: July 01, 2012 through June 30, 2013

Not-To-Exceed: \$69,000.00 per year, excluding cost of controlled substances provided to Costa Mesa Animal Control

Department Contact Person: Sgt Myers for contract (714) 754-5074
Tina Foster for payments (714) 754-5286

Vendor Contact Person: Debbie Gonzales (714) 536-8480
Dr. Samir Botros, DVM

Contract service fee will be subject to automatic annual adjustments in proportion to the % change in the CPI, all items, for all urban consumers in LA-Anaheim-Riverside Area for the preceding year, the adjustment shall not exceed 3% in any adjustment period. The first adjustment shall commence on July 1, 2010 and continue annually thereafter as long as the contract is in effect.

PSA Amendment # 1 approved and signed by City CEO on 07/11/12.
Replaced PO 6633 with City of Irvine

Internal notes:

535407-101-15300-10139 = \$69,000.00

Insurance on file: GL, Auto, WC – expires 07/01/13

Accounts Payable: (714) 754-5216 or 5073. Purchase Order Number must appear on all invoices and shipping documents. Invoice must state complete or partial delivery. Include your Taxpayer ID Number.

AUTHORIZED SIGNATURE

**PROFESSIONAL SERVICES AGREEMENT FOR
ANIMAL SHELTER SERVICES**

THIS AGREEMENT is made and entered into this 20th day of January, 2009 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and ORANGE COUNTY HUMANE SOCIETY, a nonprofit organization ("Consultant").

WITNESSETH:

- A. WHEREAS, City proposes to have Consultant provide animal shelter services as described herein below; and
- B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and
- C. WHEREAS, City and Consultant desire to contract for specific services in connection with the project described below (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and
- D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered

against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.4. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

1.5. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.6. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid a flat-rate annual fee of Sixty-Five Thousand Dollars (\$65,000.00), excluding the cost of controlled substances provided to Costa Mesa Animal Control. The OCHS service fee will be subject to automatic annual adjustments in proportion to the percentage change in the Consumer Price Index (CPI), All Items, for All Urban Consumers in the Los Angeles-Anaheim-Riverside Area for the preceding year, whichever is greater, promulgated by the Bureau of Labor Statistics of the US Department of Labor. The annual adjustment to the shelter service fee shall not exceed three percent (3%) in any adjustment period. The automatic adjustments shall commence on July 1, 2010, and shall continue every year thereafter on the same date, so long as this Agreement or any extension thereof, remains in effect.

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Scope of Services unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to City's Project Manager for approval on a progress basis, but no more often than monthly. Said invoice shall be based on the total of all Consultants' services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change

order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of three (3) years and approximately five (5) months, ending on June 30, 2012. At City's sole option, exercised in writing, this Agreement shall be renewable for two (2) successive one (1) year periods unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination.

(a) The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

(b) In the event Consultant elects to terminate this agreement after the initial three year period, it shall provide a written Notice of Termination to City's Project Manager. Upon receipt of such Notice of Termination, Consultant shall continue to provide services consistent with the services identified in this Agreement to the City for a minimum of one (1) year following the date of delivery of the written Notice of Termination to City.

4.3. Compensation. In the event of termination by City, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually

rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4 Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, medical records, data studies and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverages:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The comprehensive general liability insurance policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to this subject project and contract with City."
- (b) Notice: "Said policy shall not terminate, nor shall it be cancelled, nor the coverage reduced, until thirty (30) days after written notice is given to City."
- (c) Other insurance: "Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by

this policy."

5.3. Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.4. Non-limiting: Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Orange County Humane Society
21632 Newland Street

IF TO CITY:

City of Costa Mesa
77 Fair Drive

Huntington Beach, CA 92646
Tel: 714-536-8480
Fax: 714-536-4541
Attn: Dr. Botros, DVM

Costa Mesa, CA 92626
Tel: 714-754-5090
Fax: 714-754-5002
Attn: Bryan Glass

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "B" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless: Consultant shall protect, defend, indemnify and hold harmless City and its elected and appointed officials, officers, and employees from any and all claims, liabilities, expenses, including attorney fees, damage to property or injuries to or death of any person or persons or damages of any nature including, but not by way of limitation, all civil claims or workers' compensation claims arising out of or in any way connected with the intentional or negligent acts, error or omissions of Consultant, its employees, agents or subcontractors in the performance of this Agreement.

6.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.

6.11. Ownership of Documents: All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by

Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.12. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.13. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.14. Prohibited Employment: Consultant will not employ any regular employee of City while this Agreement is in effect.

6.15. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

6.16. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.17. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.18. Headings: Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.20. Amendments: Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

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

and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

[Redacted Signature]

Mayor of the City of Costa Mesa

Date: 1.20.09

ORANGE COUNTY HUMANE SOCIETY

[Redacted Signature]

Date: 1/20/09

Signature

Samir S. Botas
Name and Title

Social Security or Taxpayer ID Number

ATTEST:

[Redacted Signature]

City Clerk and ex-officio Clerk
of the City of Costa Mesa

APPROVED AS TO FORM:

[Redacted Signature]

Date: 1/20/09

City Attorney

APPROVED AS TO INSURANCE:

[Redacted Signature]

Date: 3/3/09

APPROVED AS TO CONTENT:

[Redacted Signature]

Date: 1/20/09

Project Manager

SCOPE OF SERVICES

1. The Orange County Humane Society ("OCHS" or "Shelter") shall furnish all labor, supervision, equipment, supplies and facilities necessary to provide the services to be rendered under this Agreement at a flat-rate fee of sixty five thousand dollars (\$65,000), excluding the cost of controlled substances provided to Costa Mesa Animal Control.
2. The OCHS shall act in the capacity of City Pound and accept, on behalf of the City of Costa Mesa ("City"), any live dog, cat or small animals (as defined in Chapter I of Title 3 of the Costa Mesa Municipal Code) including reptiles, birds, opossums, goats, pigs or other small animals brought to shelter facilities by Costa Mesa Animal Control Officers of the City for impoundment or euthanasia. Veterinarian shall also accept small stray domestic animals found in the City for impoundment or euthanasia from private citizens of the City. Veterinarian shall administer City's animal adoption program in accordance with Title 3 of the Costa Mesa Municipal Code and the provisions set forth therein.
3. The shelter shall provide an adequate number of dog kennels and cat cages, isolation facilities for quarantined animals and access to large animal housing for Costa Mesa impounds. The shelter must ensure that Police Holds, Quarantines, or pets held in protective custody will be in an isolated area to which the public is not permitted access. Such animals will not be removed from the isolated area without approval from Costa Mesa Animal Control.
4. All animals shall be held by the OCHS facilities for periods of time, which shall be in accordance with the requirements of sections 31108 and 31752 of the California Food and Agriculture Code unless sooner redeemed by their respective owners or adopted. At the direction of the City, the OCHS shall hold animals longer than the above-stated retention periods for police purposes, quarantine purposes, vicious animal investigations, nuisance enforcement, or cruelty investigations.
5. The OCHS shall euthanize and properly care for euthanized animals deemed by City's Animal Control Officer, with the concurrence of the treating Veterinarian, to have an untreatable or contagious medical condition. All animals held in impound for the maximum time as set forth herein, may, if not adopted or redeemed by the expiration of that time period, be euthanized at the discretion of the OCHS in accordance with applicable California statutes, except that no impounded animal shall be euthanized or otherwise disposed of without notice to the owner, if such person is known. No impounded animal shall be sold or donated for research, experimentation, or educational purposes.
6. The OCHS shall be responsible for the proper care and protection of all animals. The OCHS shall maintain animal shelter facilities in a sanitary condition at all times and provide adequate storage of deceased animals in an area out of view from the general public; all services furnished by the OCHS hereunder shall be in accordance with the laws of the State of California; and Veterinarian shall give the prescribed

notices and shall use humane methods of care or destruction for any animal coming under its control.

7. The OCHS shall administer Rabies vaccinations to each dog prior to adoption or redemption by owner unless proof of current Rabies inoculation is furnished at time of release.
8. The OCHS shall accept for disposal any deceased small animal delivered to shelter facilities by Costa Mesa Animal Control and City residents free of charge. All deceased animals shall be disposed of by the OCHS in accordance with applicable laws.
9. The OCHS shall provide lost-and-found and referral services as required by California Food and Agricultural Code Section 32001, subdivisions (a) through (e).
10. The OCHS shall provide support in animal cruelty investigations by performing examinations, necropsies, reports, or other procedures necessary to a case.
11. The OCHS shall maintain an "open-shelter" policy which requires the shelter to accept all dogs and cats brought in by residents of the City and/or found within the City limits. This is to prevent City citizens and/or animals from being denied and placed in the care of the Orange County Animal Care (OCAC).
12. The OCHS shall allow City residents who bring in stray dogs and/or cats to the shelter the first opportunity to adopt them before they are made available to the general public.
13. Animals brought to the OCHS by Costa Mesa Animal Control and/or City residents will be placed up for adoption to the public and efforts will be taken to find a home or placement for the animal. Animals which have been declared vicious, are terminally ill, or contagious may be considered for euthanasia at the discretion of the Veterinarian.
14. For the purpose of a low-cost spay and neuter program, the OCHS and/or AAA Animal Hospital will accept monetary vouchers presented to him by residents of Costa Mesa. Vouchers are payable to Veterinarian from the City of Costa Mesa out of monies collected pursuant to California Food and Agriculture Code Section 30804.7.
15. The shelter shall keep comprehensive records and submit regular monthly reports to Costa Mesa Animal Control. The shelter shall maintain health treatment records (if applicable) and statistical records for all animals it handles in performance of this contract. The reports shall, at minimum, include the number of impounds, disposition of animals, and fees collected that are payable to the City of Costa Mesa. The information maintained may also consist of:
 - Description of the animal, including breed, color, gender, size, and behavioral disposition

- Who brought the animal in, date the animal was brought in, where and how the animal was obtained
- Animal's owner (if known)
- Duration of stay
- When the animal was redeemed or who adopted the animal
- Name and address of new owner
- When the animal was euthanized
- Disposition of all complaints regarding animal(s)
- All dangerous and potentially dangerous animals and dog bite incidents
- Fees collected
- Records of licenses sold with names and addresses

FEES

1. All fees shall be posted on the OCHS facilities in a location readable from the ground level and easily accessible to those members of the public wishing to redeem or adopt animals.
2. The OCHS shall charge those fees established by the Orange County Humane Society for impoundment, feeding, care, Veterinarian services, and disposition of animals at shelter facilities. Said fees shall be charged to members of the public whose animals are subject to this Agreement.
3. The twelve month period used to determine the fee charged for subsequent impounds shall be the twelve months subsequent to the current impoundment. The Impound Fee schedule for Costa Mesa residents redeeming animals from impound will be forty dollars (\$40) for the first impound, sixty dollars (\$60) for the second impound, and ninety dollars (\$90) for the third and subsequent impounds.
4. Veterinary services shall be available to impounded Costa Mesa animals during normal business hours. In the event the OCHS Veterinarian is required to perform routine or emergency medical services for any injured or sick animal delivered to him, the charge to the owner of said animal shall be in accordance with the current AAA Hospital fee schedule. The OCHS shall bear the cost of emergency medical care rendered to unclaimed animals.
5. The OCHS shall comply with the provisions of California Food and Agriculture Section 30501, requiring all animals who are adopted from the shelter to be spayed or neutered; unless there are conditions such as age or illness that prevent spaying and/or neutering.
6. In the event the OCHS is required to administer a Rabies vaccination to any animal, the OCHS and/or AAA Animal Hospital shall charge the actual cost of the vaccination as required under Health & Safety Code 121690 (f).
7. The OCHS shall collect for the City, the dog licensing fees for all unlicensed dogs redeemed or adopted by residents of Costa Mesa and spay or neuter fines collected

pursuant to California Food and Agriculture Code Section 30804.7 at no cost to City. The OCHS will deliver the fees to City in the following month.

8. The OCHS and/or AAA Animal Hospital will provide the Costa Mesa Police Department with controlled substances necessary for performance of field captures and euthanasia. The controlled substances will be charged to the City at the same cost as paid by Veterinarian, outside the shelter service contract flat rate. The controlled substances to be provided are:
 - Telazol (class III drug, 100 mg/ml concentrate, used primarily in dog capture)
 - Ketamine (class III drug, 100 mg/ml for cats and subhuman primates and some dog captures)
 - Sodium Pentobarbital (class II drug, 250 ml bottle, for euthanasia only)

SHELTER FACILITIES

1. The OCHS shall at all times maintain proper shelter facilities and provide safe access for inspection by City to all parts of the facilities wherein services are performed. The OCHS must establish policy for locking the cages of the animals, particularly when the shelter is closed. The outbuildings where animals are kept must be altered so that they can be locked and secured when the shelter is closed. These new policies and changes must be fully implemented within six months of signing the Agreement.
2. Costa Mesa Animal Control will be permitted to conduct regular and unscheduled visits of the OCHS to verify proper care is being provided to shelter animals and that the OCHS is meeting the scope of shelter services identified within this contractual agreement.
3. Shelter facilities shall be defined as:

Orange County Humane Society
21632 Newland St.
Huntington Beach, CA 92646

4. Hours of operation for adoption, reclamation, disposal and acceptance of animal from citizens shall be:

10:00 a.m. – 6:00 p.m.
Monday through Friday

9:00 a.m. – 5:00 p.m.
Saturday and Sunday

The OCHS may modify hours of operation with a reasonable notice and agreement with Costa Mesa Animal Control.

5. The OCHS may be closed to the public on New Year's Day, Easter Sunday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
6. The number of shelter staff on duty shall be sufficient to provide service to the public via phone as well as in-person at the front desk at all times during regular business hours.
7. Costa Mesa Animal Control may deliver animals for impoundment or deceased animals for disposal to shelter facilities 24 hours per day, seven days per week.
8. Dog kennels will be equipped with bedding, i.e., disinfectable rubber mats and/or elevated fabric beds, which elevate dogs from the kennel floor.
9. A sign will be designed and attached near the entrance of the shelter, identifying the shelter is serving the City of Costa Mesa, e.g., Proudly Serving the City of Costa Mesa. Shelter and City staff will collaborate in designing the sign and selecting a location for it.

ADDITIONAL SERVICES

City may request, and the OCHS may supply, special Animal Control services not otherwise provided herein, including, agreed upon services, the retention of animals related to criminal prosecutions for other than violation of animal control regulations or ordinances adopted pursuant to this Agreement. The OCHS shall board said animals at no cost to the City and, until otherwise directed by City, in accordance with the Costa Mesa Municipal code and the laws of the State of California.

EXHIBIT B

CITY COUNCIL POLICY 100-5

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

- b. Establishing a Drug-Free Awareness Program to inform employees about:
 - 1. The dangers of drug abuse in the workplace;
 - 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 - 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
 - 1. Abide by the terms of the statement; and
 - 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
 - 1. Taking appropriate personnel action against such an employee, up to and including termination; or
 - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
 3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

EXHIBIT C
CERTIFICATES OF INSURANCE

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID NO
AAAN-1

DATE (MM/DD/YYYY)
03/03/09

PRODUCER
Veterinary Ins. Services Co.
CA License #0F64180
1400 River Park Drive, #180
Sacramento CA 95815
Phone: 888-762-3143 Fax: 916-921-2266

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED

AAA Animal Clinic
Orange County Humane
21632 Newland St.
Huntington Beach CA 92646

INSURERS AFFORDING COVERAGE		NAIC #
INSURER A:	Fireman's Fund Insurance Co.	
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

NSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY TYPE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	8H4AZC80829124	07/01/08	07/01/09	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Emp Ben.	\$ 1,000,000 \$ 100,000 \$ 10,000 \$ \$ 2,000,000 \$ 1,000,000 1,000,000
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	8H4AZC80829124	07/01/08	07/01/09	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	\$ 1,000,000 \$ \$ \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	\$ \$ \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE AGGREGATE	\$ \$ \$ \$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	8H4WZP80993126	07/01/08	07/01/09	<input checked="" type="checkbox"/> NO STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	\$ 1,000,000 \$ 1,000,000 \$ 1,000,000
A		Professional Liab	8H4AZC80829124	07/01/08	07/01/09	Occur Aggregate	\$1,000,000 \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

The certificate holder is named as additional insured.
10-day notice of cancellation for non-payment.

CERTIFICATE HOLDER

CANCELLATION

CITYCOS

The City of Costa Mesa & its elected & appointed boards, officers, agents & employees
77 Fair Drive
Costa Mesa CA 92626

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL SEND BY MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT KNOWINGLY SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR

REPRESENTATIVE AUTHORITY

Arthur

Additional Insured – Owners, Lessees or Contractors – AB 90 67 12 93
 Policy Amendment Section II

Insured	AAA Animal Clinic Orange County Humane	Policy Number	8H4AZC80829124
Producer	Veterinary Ins Services Co	Effective Date	07/01/2008

Schedule

Name of Person(s) or Organization(s)

The City of Costa Mesa & its elected & appointed boards, officers, agents & employees

Primary Insurance: It is agreed that such insurance as afforded by this policy for the benefit of the additional insured shall be primary insurance as respects any claim, loss or liability arising directly or indirectly from the insured's operations and any other insurance maintained by the additional insured shall be non-contributory with the insurance provided hereunder.

(If no entry appears above, information required to complete this Endorsement will be shown in the Declarations as applicable to this Endorsement)

The following is Added to Part I – WHO IS AN INSURED in the Business Liability Section of this policy

arising out of your work for that insured by or for you.

5. The person or organization shown in the Schedule is also an insured, but only with respects to liability

All other terms and conditions of the policy apply.

This form must be attached to Change Endorsement when issued after the policy is written. One of the Fireman's Fund Insurance Companies as named in the policy.

Secretary _____

President _____



CITY COUNCIL AGENDA REPORT

MEETING DATE: January 20, 2009

ITEM NUMBER: Item Number

SUBJECT: ANIMAL SHELTER SERVICES

DATE: January 9, 2008

FROM: CITY MANAGER'S OFFICE / POLICE DEPARTMENT – ADMINISTRATION DIVISION

PRESENTATION TOM HATCH, ASSISTANT CITY MANAGER
BY: BRYAN GLASS, SERGEANT

FOR FURTHER INFORMATION CONTACT: BRYAN GLASS 714.754.5090

RECOMMENDATION:

1. Award animal shelter and related services contract to the Orange County Humane Society (OCHS), 21632 Newland St., Huntington Beach, California, in the amount of \$65,000, with automatic annual adjustments as specified in the Professional Services Agreement.
2. Authorize the Mayor and the City Clerk to execute the Professional Services Agreement for the contract.

BACKGROUND:

On July 3, 2007, the City of Costa Mesa entered into a contract with the City of Irvine for animal shelter services, provided by the Irvine Animal Care Center (IACC). The duration of the contract was expected to be up to five (5) years, as agreed upon in the terms and conditions of the contract.

On June 16, 2008, the City of Costa Mesa was informed by the City of Irvine, via a letter, that it was discontinuing the contract due to capacity issues and their desire to limit their services to Irvine Animal Control and Irvine residents. Irvine agreed to continue providing animal shelter services for Costa Mesa until an alternative means was identified or until May 31, 2009.

Since being notified of Irvine's intent to terminate shelter services, City staff contacted Irvine officials and verified there is no option to renegotiate a contract for animal shelter services. As a result, City staff has researched alternate options for animal shelter services and identified two options: the Orange County Humane Society or the Orange County Animal Center (OCAC).

At the December 9, 2008, Study Session, City staff submitted an Agenda Report and presented an analysis of the two options available to the City for animal shelter services. At the conclusion of the agenda item, the City Council provided direction to staff to pursue a Professional Services Agreement with the Orange County Humane Society for animal shelter services.

ANALYSIS:

The City of Costa Mesa is in a position where it requires animal shelter services that can accommodate the needs of Costa Mesa Animal Control and the community. The December 9, 2008, City Council Study Session Agenda Report on animal shelter services identified two options for the City and their associated costs.

<u>Option</u>	<u>Cost</u>	<u>Conditions</u>
1. Orange County Humane Society	\$65,000	Flat Rate, A
2. Orange County Animal Care	\$223,700	B, C

A - The OCHS service fee will be subject to automatic annual adjustments in proportion to the percentage change in the Consumer Price Index (CPI), All Items, for All Urban Consumers in the Los Angeles-Anaheim-Riverside Area for the preceding year, whichever is greater, promulgated by the Bureau of Labor Statistics of the US Department of Labor. In no event shall the annual adjustment to the shelter service fee exceed 3 percent (3%) in any adjustment period. The automatic adjustments shall commence on the 1st of July 2010, and shall continue every year thereafter on the same date.

B - OCAC has an additional impound fee of \$3 per live and \$2 per deceased animal brought to the facility. Based on our 2007 data, this additional cost for Costa Mesa is estimated to be \$3,249 (1,083 live impounds X \$3 per impound) plus deceased impounds at a cost of \$1,396 (698 impounds X \$2 per impound) for a total cost of \$4,645.

C - OCAC is in the preliminary stages of planning for the purchase of land and the construction of a new shelter facility in Orange County. When the proposed facility is approved, all cities contracting with OCAC will be required to fund a portion of an estimated \$15 million, 20-year bond that is expected to fund the project. The required portion to be funded by contracting cities is based on their utilization rate of the shelter facility and services. For example, the City of Costa Mesa is currently estimated to have a utilization rate of 2.9%, which would require the City to fund approximately \$435,000 of the bond. This is a preliminary estimate and the true amount would be based on the actual utilization rate at the time the project was approved.

The approval of a Professional Service Agreement with the Orange County Humane Society will generate an annual savings of approximately \$70,000; in addition to the saving in operational costs due to the facility's close proximity. This savings takes into consideration \$15,000 in funds being authorized annually to the Police Department's Administrative Division Animal Control Budget for educational programs, services related to animal care and control, minor capital improvements and capital equipment as well as materials that promote the well-being of animals at the shelter and in the community.

In contrast, if the City Council would have sought negotiations and animal shelter services with Orange County Animal Care, funds in the excess of \$80,000 would have to be authorized. This is in addition to the \$150,000 already allocated, creating an approximate \$230,000 animal shelter service budget item that would require annual funding. The City would also have to agree to fund a portion of the \$15 million dollar bond utilized to purchase the land and cover the costs of constructing of the proposed new Orange County Animal Care shelter facility when it came into fruition.

ALTERNATIVES CONSIDERED:

There are only two options available to the City of Costa Mesa for animal shelter services: the Orange County Humane Society and Orange County Animal Care. This is due to the quantity of animal impounds by Costa Mesa Animal Control, capacity needs, operational benefits, and services provided to the citizen of Costa Mesa. If the City Council decides not to approve a Professional Services Agreement with the Orange County Humane Society, City staff could negotiate with Orange County Animal Care staff on specifics for an animal shelter services contract.

**PROFESSIONAL SERVICES AGREEMENT FOR
ANIMAL SHELTER SERVICES**

THIS AGREEMENT is made and entered into this _____ day of _____, 2009 (“Effective Date”), by and between the CITY OF COSTA MESA, a municipal corporation (“City”), and ORANGE COUNTY HUMANE SOCIETY, a nonprofit organization (“Consultant”).

WITNESSETH:

- A. WHEREAS, City proposes to have Consultant provide animal shelter services as described herein below; and
- B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and
- C. WHEREAS, City and Consultant desire to contract for specific services in connection with the project described below (the “Project”) and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and
- D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in the Scope of Services attached hereto as Exhibit “A” and incorporated herein by reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant’s performance of this Agreement.

1.3. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers’ compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys’ fees and costs, presented, brought, or recovered

against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.4. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

1.5. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.6. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid a flat-rate annual fee of Sixty-Five Thousand Dollars (\$65,000.00), excluding the cost of controlled substances provided to Costa Mesa Animal Control. The OCHS service fee will be subject to automatic annual adjustments in proportion to the percentage change in the Consumer Price Index (CPI), All Items, for All Urban Consumers in the Los Angeles-Anaheim-Riverside Area for the preceding year, whichever is greater, promulgated by the Bureau of Labor Statistics of the US Department of Labor. The annual adjustment to the shelter service fee shall not exceed three percent (3%) in any adjustment period. The automatic adjustments shall commence on July 1, 2010, and shall continue every year thereafter on the same date, so long as this Agreement or any extension thereof, remains in effect.

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Scope of Services unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to City's Project Manager for approval on a progress basis, but no more often than monthly. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change

order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of three (3) years and approximately five (5) months, ending on June 30, 2012. At City's sole option, exercised in writing, this Agreement shall be renewable for two (2) successive one (1) year periods unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination.

(a) The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

(b) In the event Consultant elects to terminate this agreement after the initial three year period, it shall provide a written Notice of Termination to City's Project Manager. Upon receipt of such Notice of Termination, Consultant shall continue to provide services consistent with the services identified in this Agreement to the City for a minimum of one (1) year following the date of delivery of the written Notice of Termination to City.

4.3. Compensation. In the event of termination by City, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually

rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4 Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, medical records, data studies and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverages:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The comprehensive general liability insurance policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to this subject project and contract with City."
- (b) Notice: "Said policy shall not terminate, nor shall it be cancelled, nor the coverage reduced, until thirty (30) days after written notice is given to City."
- (c) Other insurance: "Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by

this policy."

5.3. Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.4. Non-limiting: Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Orange County Humane Society
21632 Newland Street

IF TO CITY:

City of Costa Mesa
77 Fair Drive

Huntington Beach, CA 92646
Tel: 714-536-8480
Fax: 714-536-4541
Attn: Dr. Botros, DVM

Costa Mesa, CA 92626
Tel: 714-754-5090
Fax: 714-754-5002
Attn: Bryan Glass

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "B" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless: Consultant shall protect, defend, indemnify and hold harmless City and its elected and appointed officials, officers, and employees from any and all claims, liabilities, expenses, including attorney fees, damage to property or injuries to or death of any person or persons or damages of any nature including, but not by way of limitation, all civil claims or workers' compensation claims arising out of or in any way connected with the intentional or negligent acts, error or omissions of Consultant, its employees, agents or subcontractors in the performance of this Agreement.

6.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder.

6.11. Ownership of Documents: All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by

Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.12. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.13. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.14. Prohibited Employment: Consultant will not employ any regular employee of City while this Agreement is in effect.

6.15. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

6.16. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.17. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.18. Headings: Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.20. Amendments: Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

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

and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

Mayor of the City of Costa Mesa

Date: _____

ORANGE COUNTY HUMANE SOCIETY

Signature

Date: _____

Name and Title

Social Security or Taxpayer ID Number

ATTEST:

City Clerk and ex-officio Clerk
of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

Date: _____

APPROVED AS TO INSURANCE:

Risk Management

Date: _____

APPROVED AS TO CONTENT:

Project Manager

Date: _____

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES

1. The Orange County Humane Society ("OCHS" or "Shelter") shall furnish all labor, supervision, equipment, supplies and facilities necessary to provide the services to be rendered under this Agreement at a flat-rate fee of sixty five thousand dollars (\$65,000), excluding the cost of controlled substances provided to Costa Mesa Animal Control.
2. The OCHS shall act in the capacity of City Pound and accept, on behalf of the City of Costa Mesa ("City"), any live dog, cat or small animals (as defined in Chapter I of Title 3 of the Costa Mesa Municipal Code) including reptiles, birds, opossums, goats, pigs or other small animals brought to shelter facilities by Costa Mesa Animal Control Officers of the City for impoundment or euthanasia. Veterinarian shall also accept small stray domestic animals found in the City for impoundment or euthanasia from private citizens of the City. Veterinarian shall administer City's animal adoption program in accordance with Title 3 of the Costa Mesa Municipal Code and the provisions set forth therein.
3. The shelter shall provide an adequate number of dog kennels and cat cages, isolation facilities for quarantined animals and access to large animal housing for Costa Mesa impounds. The shelter must ensure that Police Holds, Quarantines, or pets held in protective custody will be in an isolated area to which the public is not permitted access. Such animals will not be removed from the isolated area without approval from Costa Mesa Animal Control.
4. All animals shall be held by the OCHS facilities for periods of time, which shall be in accordance with the requirements of sections 31108 and 31752 of the California Food and Agriculture Code unless sooner redeemed by their respective owners or adopted. At the direction of the City, the OCHS shall hold animals longer than the above-stated retention periods for police purposes, quarantine purposes, vicious animal investigations, nuisance enforcement, or cruelty investigations.
5. The OCHS shall euthanize and properly care for euthanized animals deemed by City's Animal Control Officer, with the concurrence of the treating Veterinarian, to have an untreatable or contagious medical condition. All animals held in impound for the maximum time as set forth herein, may, if not adopted or redeemed by the expiration of that time period, be euthanized at the discretion of the OCHS in accordance with applicable California statutes, except that no impounded animal shall be euthanized or otherwise disposed of without notice to the owner, if such person is known. No impounded animal shall be sold or donated for research, experimentation, or educational purposes.
6. The OCHS shall be responsible for the proper care and protection of all animals. The OCHS shall maintain animal shelter facilities in a sanitary condition at all times and provide adequate storage of deceased animals in an area out of view from the general public; all services furnished by the OCHS hereunder shall be in accordance with the laws of the State of California; and Veterinarian shall give the prescribed

notices and shall use humane methods of care or destruction for any animal coming under its control.

7. The OCHS shall administer Rabies vaccinations to each dog prior to adoption or redemption by owner unless proof of current Rabies inoculation is furnished at time of release.
8. The OCHS shall accept for disposal any deceased small animal delivered to shelter facilities by Costa Mesa Animal Control and City residents free of charge. All deceased animals shall be disposed of by the OCHS in accordance with applicable laws.
9. The OCHS shall provide lost-and-found and referral services as required by California Food and Agricultural Code Section 32001, subdivisions (a) through (e).
10. The OCHS shall provide support in animal cruelty investigations by performing examinations, necropsies, reports, or other procedures necessary to a case.
11. The OCHS shall maintain an "open-shelter" policy which requires the shelter to accept all dogs and cats brought in by residents of the City and/or found within the City limits. This is to prevent City citizens and/or animals from being denied and placed in the care of the Orange County Animal Care (OCAC).
12. The OCHS shall allow City residents who bring in stray dogs and/or cats to the shelter the first opportunity to adopt them before they are made available to the general public.
13. Animals brought to the OCHS by Costa Mesa Animal Control and/or City residents will be placed up for adoption to the public and efforts will be taken to find a home or placement for the animal. Animals which have been declared vicious, are terminally ill, or contagious may be considered for euthanasia at the discretion of the Veterinarian.
14. For the purpose of a low-cost spay and neuter program, the OCHS and/or AAA Animal Hospital will accept monetary vouchers presented to him by residents of Costa Mesa. Vouchers are payable to Veterinarian from the City of Costa Mesa out of monies collected pursuant to California Food and Agriculture Code Section 30804.7.
15. The shelter shall keep comprehensive records and submit regular monthly reports to Costa Mesa Animal Control. The shelter shall maintain health treatment records (if applicable) and statistical records for all animals it handles in performance of this contract. The reports shall, at minimum, include the number of impounds, disposition of animals, and fees collected that are payable to the City of Costa Mesa. The information maintained may also consist of:
 - Description of the animal, including breed, color, gender, size, and behavioral disposition

- Who brought the animal in, date the animal was brought in, where and how the animal was obtained
- Animal's owner (if known)
- Duration of stay
- When the animal was redeemed or who adopted the animal
- Name and address of new owner
- When the animal was euthanized
- Disposition of all complaints regarding animal(s)
- All dangerous and potentially dangerous animals and dog bite incidents
- Fees collected
- Records of licenses sold with names and addresses

FEES

1. All fees shall be posted on the OCHS facilities in a location readable from the ground level and easily accessible to those members of the public wishing to redeem or adopt animals.
2. The OCHS shall charge those fees established by the Orange County Humane Society for impoundment, feeding, care, Veterinarian services, and disposition of animals at shelter facilities. Said fees shall be charged to members of the public whose animals are subject to this Agreement.
3. The twelve month period used to determine the fee charged for subsequent impounds shall be the twelve months subsequent to the current impoundment. The Impound Fee schedule for Costa Mesa residents redeeming animals from impound will be forty dollars (\$40) for the first impound, sixty dollars (\$60) for the second impound, and ninety dollars (\$90) for the third and subsequent impounds.
4. Veterinary services shall be available to impounded Costa Mesa animals during normal business hours. In the event the OCHS Veterinarian is required to perform routine or emergency medical services for any injured or sick animal delivered to him, the charge to the owner of said animal shall be in accordance with the current AAA Hospital fee schedule. The OCHS shall bear the cost of emergency medical care rendered to unclaimed animals.
5. The OCHS shall comply with the provisions of California Food and Agriculture Section 30501, requiring all animals who are adopted from the shelter to be spayed or neutered; unless there are conditions such as age or illness that prevent spaying and/or neutering.
6. In the event the OCHS is required to administer a Rabies vaccination to any animal, the OCHS and/or AAA Animal Hospital shall charge the actual cost of the vaccination as required under Health & Safety Code 121690 (f).
7. The OCHS shall collect for the City, the dog licensing fees for all unlicensed dogs redeemed or adopted by residents of Costa Mesa and spay or neuter fines collected

pursuant to California Food and Agriculture Code Section 30804.7 at no cost to City. The OCHS will deliver the fees to City in the following month.

8. The OCHS and/or AAA Animal Hospital will provide the Costa Mesa Police Department with controlled substances necessary for performance of field captures and euthanasia. The controlled substances will be charged to the City at the same cost as paid by Veterinarian, outside the shelter service contract flat rate. The controlled substances to be provided are:
 - Telazol (class III drug, 100 mg/ml concentrate, used primarily in dog capture)
 - Ketamine (class III drug, 100 mg/ml for cats and subhuman primates and some dog captures)
 - Sodium Pentobarbital (class II drug, 250 ml bottle, for euthanasia only)

SHELTER FACILITIES

1. The OCHS shall at all times maintain proper shelter facilities and provide safe access for inspection by City to all parts of the facilities wherein services are performed. The OCHS must establish policy for locking the cages of the animals, particularly when the shelter is closed. The outbuildings where animals are kept must be altered so that they can be locked and secured when the shelter is closed. These new policies and changes must be fully implemented within six months of signing the Agreement.
2. Costa Mesa Animal Control will be permitted to conduct regular and unscheduled visits of the OCHS to verify proper care is being provided to shelter animals and that the OCHS is meeting the scope of shelter services identified within this contractual agreement.
3. Shelter facilities shall be defined as:

Orange County Humane Society
21632 Newland St.
Huntington Beach, CA 92646

4. Hours of operation for adoption, reclamation, disposal and acceptance of animal from citizens shall be:

10:00 a.m. – 6:00 p.m.
Monday through Friday

9:00 a.m. – 5:00 p.m.
Saturday and Sunday

The OCHS may modify hours of operation with a reasonable notice and agreement with Costa Mesa Animal Control.

5. The OCHS may be closed to the public on New Year's Day, Easter Sunday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
6. The number of shelter staff on duty shall be sufficient to provide service to the public via phone as well as in-person at the front desk at all times during regular business hours.
7. Costa Mesa Animal Control may deliver animals for impoundment or deceased animals for disposal to shelter facilities 24 hours per day, seven days per week.
8. Dog kennels will be equipped with bedding, i.e., disinfectable rubber mats and/or elevated fabric beds, which elevate dogs from the kennel floor.
9. A sign will be designed and attached near the entrance of the shelter, identifying the shelter is serving the City of Costa Mesa, e.g., Proudly Serving the City of Costa Mesa. Shelter and City staff will collaborate in designing the sign and selecting a location for it.

ADDITIONAL SERVICES

City may request, and the OCHS may supply, special Animal Control services not otherwise provided herein, including, agreed upon services, the retention of animals related to criminal prosecutions for other than violation of animal control regulations or ordinances adopted pursuant to this Agreement. The OCHS shall board said animals at no cost to the City and, until otherwise directed by City, in accordance with the Costa Mesa Municipal code and the laws of the State of California.

EXHIBIT B

CITY COUNCIL POLICY 100-5

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

- b. Establishing a Drug-Free Awareness Program to inform employees about:
 - 1. The dangers of drug abuse in the workplace;
 - 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 - 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
 - 1. Abide by the terms of the statement; and
 - 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
 - 1. Taking appropriate personnel action against such an employee, up to and including termination; or
 - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
- 2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
- 3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

EXHIBIT C
CERTIFICATES OF INSURANCE