

CONTRACT

The COUNTY OF SAN BENITO ("COUNTY") and CITY OF HOLLISTER ("CONTRACTOR") enter into this contract which shall be effective on the date stated in Paragraph 1.

1. Duration of Contract.

This contract shall commence on July 1, 2013, and end on June 30, 2016, unless sooner terminated as specified herein.

2. Scope of Services.

CONTRACTOR, for COUNTY's benefit shall perform the services specified on Attachment A to this contract. Attachment A is made a part of this contract.

3. Compensation for Services.

In consideration for CONTRACTOR's performance, COUNTY shall pay compensation to CONTRACTOR according to the terms specified in Attachments A and B. Attachments A and B are made a part of this contract.

4. General Terms and Conditions.

The rights and duties of the parties to this contract are governed by the general terms and conditions mutually agreed to and listed in Attachment C. Attachment C is made a part of this contract.

5. Insurance Limits.

CONTRACTOR shall maintain its self-insurance policy of \$3 Million.

6. Termination.

The number of days of advance written notice required for termination of this contract is 60 days.

7. Specific Terms and Conditions (check one)

☒ There are no additional provisions to this contract.

☐ The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment D. Attachment D is made a part of this contract.

☐ The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment E. Attachment E is made a part of this contract.

8. Information about Contract Administrators.

The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

Contract Administrator for COUNTY:

Name: Ray Espinosa

Title: Interim County Administrative Officer

Address: 481 Fourth Street

Hollister, California 95023

Telephone No.: (831) 636-4000

Fax No.: (831) 636-4010

Contract Administrator for CONTRACTOR:

Name: Clint Quilter

Title: City Manager

Address: 375 Fifth Street

Hollister, California 95023

Telephone No.: (831) 636-4305

Fax No.: (831) 636-4310

SIGNATURES

APPROVED BY COUNTY:

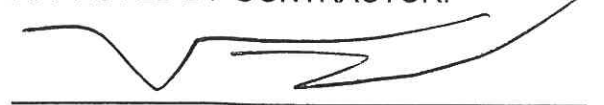


Name: Anthony Botelho

Chair, San Benito County Board of Supervisors

Date: 6-18-13

APPROVED BY CONTRACTOR:



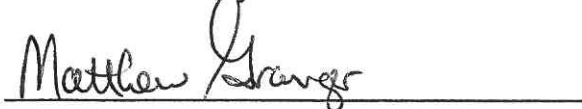
Name: Ignacio Velazquez

Title: Mayor, City of Hollister

Date: 6-17-2013

APPROVED AS TO LEGAL FORM:

Barbara Thompson, Assistant County Counsel
San Benito County



By: MATTHEW GRANGER

Date: 6-18-2013

APPROVED AS TO LEGAL FORM:

Stephanie Atigh, City Attorney
City of Hollister



By: _____

Date: 6-18-2013

ATTACHMENT A Scope of Services

The City of Hollister owns and operates the Hollister Police Animal Care and Services (ACS). The ACS provides for care of animals, maintenance of a sheltering facility, equipment and vehicles for the operation. The ACS retains skilled officers and employees to manage, operate and maintain the sheltering facility and all animals under their care.

The County of San Benito does not have a sheltering facility and therefore desires to contract with the City of Hollister to provide animal control services, through the City's ACS, for animals or cases arising on lands in the unincorporated areas of the County of San Benito.

The services provided to the County of San Benito by the City of Hollister's ACS for services for those animals or cases arising on lands in the unincorporated areas of the County of San Benito include:

- A. Administer animal control services and sheltering of animals.
- B. Enforce and adhere to all applicable laws and regulations of the state or County of San Benito as they relate to animal control.
- C. Issue licenses, collect all applicable fees and fines, and account for the collection of all revenues received.
- D. Track expenditures and audit the County's share of expenditures, less revenues collected for animal control services and animal sheltering.
- E. Issue criminal citations, when necessary.
- F. Issue administrative citations pursuant to the County Administrative Citation ordinance as they relate to the San Benito County Animal Control ordinance, subject to the County's continuing delegation of authorization and/or any applicable County resolutions and policies regarding the issuance of Administrative Citations.
- G. Provide quarterly status reports that include a recap of the services provided to the County including, expenditures made, revenues collected and a summary of overall program goals and objectives.

The services provided by the County of San Benito, solely at the expense of San Benito County, for those animals or cases arising on lands in the unincorporated areas of the County of San Benito:

- A. To provide legal counsel for cases before the Superior Court or designated staff to act as Hearing Officers for dangerous dog cases if required.
- B. To retain a County Veterinarian to assist the ACS.
- C. To direct the County Public Health Officer and/or designated staff to assist the ACS regarding dangerous dogs, biting dogs and potential Rabies cases.
- D. To request the San Benito County Sheriff's Office to assist the ACS if requested by ACS, with services requiring a sworn officer.
- E. To request the San Benito County Sheriff's office to respond when necessary to assist in investigations regarding animal complaints, code violations and animal cruelty reporting.

Additional services not covered by this agreement are listed below and can be provided at the expense of either party to this agreement or to the owner of the animal herein referred to as the responsible party.

A. Livestock Hauling -

- i. Any livestock that is reported loose on county/city roads or highways, that is considered a public safety issue and requires a response by ACS to collect, transport and care for the animal is an additional expense. Services may include contracting with an outside vendor for this service.
- ii. Costs for this service will be borne by the owner of the animal who is recognized as the responsible party.
- iii. If no responsible party is identified then the jurisdiction where the animal is found will bear the cost. Restitution for any services rendered will be reimbursed to the jurisdiction with the loss.

B. Large Dead Animal Removal-

- i. Any large dead animal (ie. horses, cows, alpacas, llamas, deer, and other livestock) that is reported on county/city roads or highways and is considered a public safety issue and requires a response by ACS to collect, transport and dispose of the animal is an additional expense. Services may include contracting with an outside vendor for this service.
- ii. Any owner of a large dead animal that is requesting services from ACS to collect, transport and dispose of an animal will be an expense to the owner of the animal. Services may include contracting with an outside vendor for this service.
- iii. If no responsible party is identified then the jurisdiction where the animal originated will bear the cost. If the jurisdiction where the animal originated can not be determined, the County shall bear the cost. Restitution for any services rendered will be reimbursed to the jurisdiction with the loss.

C. Major Cruelty Cases or Major Incidents -

- i. Any major animal cruelty case (i.e. puppy mills, hoarding of animals, cockfighting cases or large rooster operations) that require a substantial investment of time and resources by the animal control staff and/or City/County law enforcement will be charged in full to the responsible party. If no responsible party is found or if the responsible party cannot pay, the jurisdiction where the case originated shall bear the cost. Restitution for any services or costs will be reimbursed to the jurisdiction with the loss.

END OF ATTACHMENT A.

ATTACHMENT B

Payment Schedule

B-1. BILLING

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (check one)

- ☐ One month in arrears.
- ☐ Upon the complete performance of the services specified in Attachment A.
- ☒ The basis specified in paragraph B-4.

B-2. PAYMENT

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of this contract, net thirty (30) days from the invoice date.

B-3. COMPENSATION

COUNTY shall pay to CONTRACTOR: (check one)

☐ a total lump sum payment of \$ _____, or

☒ a total sum not to exceed 55% of the total expense, as defined herein of the proposed annual budget for ACS, less costs for 911 communication, infrastructure radio contracts, vehicles replacement, and fixed assets. The total expense less any revenues collected on behalf of the County will be invoiced, as agreed upon by both entities, for services rendered pursuant to the terms and conditions of this contract and pursuant to any special compensation terms specified in this attachment, Attachment B.

B-4. SPECIAL COMPENSATION TERMS: (check one)

- ☐ There are no additional terms of compensation.
- ☒ The following specific terms of compensation shall apply: (Specify)

The "City" will submit a proposed Animal Control budget less costs for 911 communication and radio contracts, to the "County" contract administrator no later than April prior to the new fiscal year beginning in July. The annual budget agreed upon by both entities will remain constant for the fiscal year.

On a quarterly basis, the "City" will invoice the "County" at 55% of the actual expenditures, less any fees collected on behalf of the County. By the third quarter, if expenditures incurred by the "City" begin to exceed percentage levels of 75%, the "City" contract administrator will notify the "County" contract administrator, to meet and negotiate about how the parties will handle the variance in the budget..

"Total Expenses" is defined as the expenditures incurred by the "City" in providing services, as identified in the Animal Control Bureau - Budget Unit #2025 less costs for 911 communications and infrastructure radio contracts, vehicle replacement, and fixed assets.

The County shall not be responsible for the cost of any facility remodel or building cost unless the County approves the cost in advance, in writing.

License Fees, Fines, and Impoundment Charges will be set by each agency through ordinance, resolution or court fee schedule. The Animal Control Bureau will be responsible to collect, track and record fees as agreed upon. The license fees, fines, and impoundment charges attributable to County animals will be collected by the City on behalf of the County and will provide revenues to offset the County's cost of the program. The City will hold County's revenues in a separate account to be applied toward the County's program costs which will offset the cost each quarter.

END OF ATTACHMENT B.

ATTACHMENT C

General Terms and Conditions

C-1. INDEMNIFICATION.

CITY and COUNTY each agree to indemnify, defend and save harmless the other party and the other party's officers and employees, from and against any and all claims and losses whatsoever arising out of, or in any way related to, the indemnifying party's performance under this contract, including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorneys' fees, court costs, investigation costs, and experts' fees) incurred by the indemnitee in connection with such claims or losses. A party's "performance" includes the party's action or inaction and the action or inaction of that party's officers and employees, except that neither party shall be responsible for the willful misconduct of the other party.

C2 COMPLIANCE WITH APPLICABLE LAWS.

CITY shall comply with all applicable federal, state and local laws now, or hereafter, in force, and with any applicable regulations, in performing the work and providing the services specified in this contract. This obligation includes, without limitation, the acquisition, and maintenance of any permits, licenses, or other entitlements necessary to perform the duties imposed expressly or impliedly under this contract.

C3. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION OF DUTIES.

Except as specifically authorized herein, no rights under this contract may be assigned and no duties under this contract may be delegated by CITY without the prior written consent of COUNTY, which consent shall not be unreasonably withheld, and any attempted assignment or delegation without such consent shall be void.

C-4. NEGOTIATED CONTRACT.

This contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this contract within the meaning of California Civil Code Section 1654.

C-5. SEVERABILITY.

Should any provision herein be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect. To this end, the provisions of this contract are declared to be severable.

C-6. ENTIRE CONTRACT.

This contract is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this contract or in any document attached hereto or incorporated herein by reference.

C-7. TIME IS OF THE ESSENCE.

Time is of the essence in the performance of this contract.

C-8. TERMINATION.

Either party may terminate this contract, with or without cause, at any time. In order to terminate this contract, the terminating party shall give advance written notice to the other party. The termination shall be effective no earlier than the expiration of the number of days specified in paragraph 6 of this contract. The termination notice shall be made as specified in paragraph C-9, below. In the event of termination, COUNTY shall pay CITY for all work satisfactorily performed prior to the effective date of the termination.

C-9. NOTICES.

Notices to the parties in connection with the administration of this contract shall be given to the parties' contract administrator personally, by regular mail, or by facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

- (a) The day the notice is personally delivered to the contract administrator or the office of the party's contract administrator; or
- (b) Five days after the date the notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, with first-class postage fully prepaid; or
- (c) On the day that the notice is transmitted by facsimile to a party's facsimile number specified in paragraph 6 of this contract, provided that an original of such notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, on the same day as the facsimile transmission is made.

C-10. RESPONSIBILITY OF CONTRACT ADMINISTRATORS.

All matters concerning this contract which are within the responsibility of the parties shall be under the direction of, or shall be submitted to, the respective contract administrators or to the party's employee specified, in writing, by the contract administrator. A party may, in its sole discretion, change its designation of its contract administrator and shall promptly give written notice to the other party of any such change.

C-11. MATERIALITY.

The parties consider each and every term, covenant, and provision of this contract to be material and reasonable.

C-12. WAIVER.

Waiver by either party of a breach of any covenant of this contract will not be construed to be a continuing waiver of any subsequent breach. COUNTY'S receipt of consideration with knowledge of CITY's violation of a covenant does not waive its right to enforce any covenant of this contract. The parties shall not waive any provisions of this contract unless the waiver is in writing and signed by all parties.

C-13. AUTHORITY AND CAPACITY.

COUNTY'S and CITY's signatory each warrant and represent that each has full authority and capacity to enter into this contract.

C-14. CUMULATIVE REMEDIES.

All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and no one of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.

C-15. INDEPENDENT ADVICE.

Each party hereby represents and warrants that in executing this contract it does so with full knowledge of the rights and duties it may have with respect to the other. Each party also represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this contract and the rights and duties arising out of this contract, or that such party willingly foregoes any such consultation.

C-16. NO RELIANCE ON REPRESENTATIONS.

Each party hereby represents and warrants that it is not relying, and has not relied, upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this contract may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.

C-17. COUNTERPARTS.

This contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one contract.

C-18. INDEPENDENT CONTRACTOR.

CITY and its officers, employees and volunteers, in the performance of this contract, are independent contractors in relation to the COUNTY and not officers, employees or volunteers, of COUNTY. Nothing in this contract shall create any of the rights, powers, privileges or immunities of any officer, employee or volunteer of COUNTY. CITY shall be solely liable for all applicable taxes or benefits (if any), including, but not limited to, federal and state income taxes, Social Security taxes, or ERISA retirement benefits, which taxes or benefits may arise out of the performance of this contract, and for all workers compensation coverage.

END OF ATTACHMENT C.

RESOLUTION NO. 2012-81

**A RESOLUTION OF THE CITY OF COUNCIL OF THE CITY OF HOLLISTER
AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT TO PROVIDE
ANIMAL CONTROL SERVICES TO THE COUNTY OF SAN BENITO**

WHEREAS, the City of Hollister and County of San Benito have had an existing contract for the last three years for animal control services; and

WHEREAS, the Hollister Police Department Animal Care and Services Bureau provides animal control services to the unincorporated area of the county; and

WHEREAS, the public safety services are a vital part of the services the County and the City provides to the residents of San Benito County; and

WHEREAS, the existing three year contract is due to end on June 31, 2013; and

WHEREAS, the City and the County realized the benefit of collaborating in providing service to the communities of the City of Hollister and the County of San Benito; and

WHEREAS, both the City and the County wish to continue the services with a new three year contract;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Hollister authorizes the City Manager to sign a Contract with the County of San Benito for the Hollister Police Animal Care and Services Bureau to provide animal control services to the County of San Benito.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Hollister on the 17th day of June 2013 by the following vote:

AYES: Council Members Valdivia, Friend, Scattini, Gomez, and Mayor Velazquez.

NOES: None.

ABSENT: None.

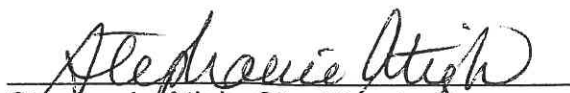


Ignacio Velazquez, Mayor

ATTEST:


Geri Johnson, City Clerk

APPROVED AS TO FORM:


Stephanie Atigh, City Attorney

DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER