

CITY OF MENIFEE
CONTRACTOR AGREEMENT
CITY OF MENIFEE: FISCAL YEAR 2020/21
ANIMAL FIELD SERVICES

THIS CONTRACTOR AGREEMENT ("Agreement") is made and effective this 17th day of June, 2020 ("Effective Date") by and between the CITY OF MENIFEE, a California municipal corporation, ("City") and **ANIMAL FRIENDS OF THE VALLEY**, a Non-Profit Corporation ("Contractor"). City and Contractor may sometimes herein be referred to individually as a "Party" and collectively as the "Parties."

SECTION 1. SERVICES.

Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Services, attached hereto as Exhibit A and incorporated herein by this reference (the "Services"). Contractor will perform subsequent task orders as requested by the Contract Administrator (as defined below), in accordance with the Scope of Services. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

1.1 Term of Services. The term of this Agreement shall begin on **July 1, 2020** and shall end on **June 30, 2021** with three (3) single one year (July 1, 2021 – June 30, 2022, July 1, 2022 – June 30, 2023, and July 1, 2023 – June 30, 2024) automatic renewals by mutual agreement unless the term of this Agreement is otherwise terminated or extended as provided for in Section 8. The time provided to Contractor to complete the Services required by this Agreement shall not affect City's right to terminate this Agreement, as provided for in Section 8.

1.2 Standard of Performance. Contractor represents and warrants that Contractor is a provider of first class work and services and Contractor is experienced in performing the Services contemplated herein and, in light of such status and experience, Contractor shall perform the Services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession and to the sole satisfaction of the Contract Administrator.

1.3 Assignment of Personnel. Contractor shall assign only competent personnel to perform the Services pursuant to Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 Time. Contractor shall devote such time to the performance of the Services pursuant to this Agreement as may be reasonably necessary to satisfy Contractor's obligations hereunder.

1.5 Authorization to Perform Services. Contractor is not authorized to perform any of the Services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

SECTION 2. COMPENSATION.

City hereby agrees to pay Contractor a sum not to exceed **TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS AND ZERO CENTS DOLLARS (\$225,000.00)** notwithstanding any contrary indications that may be contained in Contractor's proposal, for the Services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Exhibit A, regarding the amount of compensation, this Agreement shall prevail. City shall pay Contractor for the Services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for the Services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Contractor shall not bill City for duplicate services performed by more than one person.

2.1 Invoices. Contractor shall submit invoices monthly during the term of this Agreement, based on the cost for the Services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- a. Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- b. The beginning and ending dates of the billing period;
- c. A "Task Summary" containing the original contract amount, the amount of prior billings, the total due this period, the balance available under this Agreement, and the percentage of completion;
- d. At City's option, for each item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person performing the Services, the hours spent by each person, a brief description of the Services, and each reimbursable expense;
- e. The total number of hours of work performed under this Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing the Services hereunder necessary to complete the Services described in Exhibit A;
- f. Receipts for expenses to be reimbursed;
- g. The Contractor Representative's signature

Invoices shall be submitted to:

City of Menifee
Attn: Accounts Payable

29844 Haun Road
Menifee, CA 92586

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for the Services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

2.3 Final Payment. City shall pay the last five percent (5%) of the total amount due pursuant to this Agreement within sixty (60) days after completion of the Services and submittal to City of a final invoice, if all of the Services required have been satisfactorily performed.

2.4 Total Payment. City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering the Services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Contractor submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entirety of the Services performed pursuant to this Agreement, unless this Agreement is modified in writing prior to the submission of such an invoice.

2.5 Hourly Fees. Fees for the Services performed by Contractor on an hourly basis shall not exceed the amounts shown on the fee schedule included with Exhibit A.

2.6 Reimbursable Expenses. Reimbursable expenses are included within the maximum amount of this Agreement.

2.7 Payment of Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any federal or state taxes.

2.8 Payment upon Termination. In the event that City or Contractor terminates this Agreement pursuant to Section 8, City shall compensate Contractor for all outstanding costs and reimbursable expenses incurred for Services satisfactorily completed and for reimbursable expenses as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets in order to verify costs and reimbursable expenses incurred to that date.

SECTION 3. FACILITIES AND EQUIPMENT.

Except as otherwise provided, Contractor shall, at its sole cost and expense, provide all facilities and equipment necessary to perform the services required by this Agreement. In no event shall City be required to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

SECTION 4. INSURANCE REQUIREMENTS.

Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance checked below and provide Certificates of

Insurance, indicating that Contractor has obtained or currently maintains insurance that meets the requirements of this section and which is satisfactory, in all respects, to City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in Contractor's compensation. Contractor shall not allow any subcontractor, consultant, or other agent to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Contractor acknowledges the insurance policy must cover inter-insured suits between City and other Insureds.

4.1 Workers' Compensation. Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor pursuant to the provisions of the California Labor Code. Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident, ONE MILLION DOLLARS (\$1,000,000.00) disease per employee, and ONE MILLION DOLLARS (\$1,000,000.00) disease per policy. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against City and its officers, officials, employees, and authorized volunteers for loss arising from the Services performed under this Agreement.

4.2 Commercial General and Automobile Liability Insurance.

a. Commercial General Liability. Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to the Services to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from the Services contemplated under this Agreement.

b. Automobile Liability. Contractor, at its own cost and expense, shall maintain automobile liability insurance for the term of this Agreement covering any auto (Code 1), or if Contractor has no owned autos, hired (Code 8), and non-owned autos (Code 9), with limit no less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage, for risks associated with the Services contemplated by this Agreement, TWO MILLION DOLLARS (\$2,000,000.00) general aggregate, and TWO MILLION DOLLARS (\$2,000,000.00) products/completed operations aggregate. If an Automobile Liability Insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Services to be performed under this Agreement or the general aggregate limit shall be at least

twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from the Services contemplated under this Agreement, including the use of hired, owned, and non-owned automobiles.

c. Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 Code 2, 8, and 9. No endorsement shall be attached limiting the coverage.

d. Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

a. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

b. Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

4.3 DOES NOT APPLY TO CITY OF MENIFEE: FISCAL YEAR 2020/21 ANIMAL FIELD SERVICES

4.4 All Policies Requirements.

a. Acceptability of insurers. All insurance required by this Section is to be placed with insurers with a Bests' rating of no less than A:VII and admitted in California.

b. Verification of coverage. Prior to beginning the Services under this Agreement, Contractor shall furnish City with Certificates of Insurance, additional insured endorsement or policy language granting additional insured status complete certified copies of all policies, including complete certified copies of all endorsements. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind **(CITY OF MENIFEE: FISCAL YEAR 2020/21 ANIMAL FIELD SERVICES.** The name and address for Additional Insured endorsements, Certificates of Insurance and Notice of Cancellation is: City of Menifee, 29844 Haun Road, Menifee, CA 92586. City must be endorsed as an additional insured for liability arising out of ongoing and completed operations by or on behalf of Contractor..

c. Notice of Reduction in or Cancellation of Coverage. Contractor shall provide written notice to City within ten (10) working days if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self insured retention is increased.

d. Additional insured; primary insurance. City and its officers, employees, agents, and authorized volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of the Services performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of

Contractor, as applicable; premises owned, occupied, or used by Contractor; and automobiles owned, leased, or used by Contractor in the course of providing the Services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or authorized volunteers. The insurance provided to City as an additional insured must apply on a primary and non-contributory basis with respect to any insurance or self-insurance program maintained by City. Additional insured status shall continue for one (1) year after the expiration or termination of this Agreement or completion of the Services.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to City and its officers, officials, employees, and volunteers, and that no insurance or self-insurance maintained by City shall be called upon to contribute to a loss under the coverage.

e. Deductibles and Self-insured Retentions. Contractor shall obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the Services.

During the term of this Agreement, only upon the prior express written authorization of the Contract Administrator, Contractor may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Contractor procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

f. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

g. Variation. The Contract Administrator may, but is not required to, approve in writing a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that City's interests are otherwise fully protected.

4.5 Remedies. In addition to any other remedies at law or equity City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under this Agreement;

b. Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or

- c. Terminate this Agreement.

SECTION 5. INDEMNIFICATION.

To the fullest extent permitted by law, Contractor shall indemnify, protect, defend (with counsel selected by City), and hold harmless City, and any and all of its officers, employees, officials, volunteers, and agents from and against any and all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of action (whether in tort, contract, under statute, at law, in equity, or otherwise) charges, awards, assessments, fines, or penalties of any kind (including reasonable consultant and expert fees and expenses of investigation, costs of whatever kind and nature and, if Contractor fails to provide a defense for City, the legal costs of counsel retained by City) and any judgment, where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to officers, agents, employees or subcontractors of Contractor.

The provisions of this Section 5 do not apply to claims occurring as a result of City's sole or active negligence. The provisions of this Section 5 shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officers, officials, employees, and agents acting in an official capacity.

SECTION 6. STATUS OF CONTRACTOR.

6.1 Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of the Services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes the Services rendered pursuant to this Agreement. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Contractor shall not at any time or in any manner represent that it or any of its officers, employees, or agents is in any manner officers, officials, employees, or agents of City. Contractor shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner. Except for the fees paid to Contractor as provided in this Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing the Services hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing the Services hereunder. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System ("PERS") as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

SECTION 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Contractor and any subcontractor shall comply with all applicable local, state, and federal laws and regulations applicable to the performance of the work hereunder. Contractor shall not hire or employ any person to perform work within City or allow any person to perform the Services required under this Agreement unless such person is properly documented and legally entitled to be employed within the United States. Any and all work subject to prevailing wages, as determined by the Director of Industrial Relations of the State of California, will be the minimum paid to all laborers, including Contractor's employee and subcontractors. It is understood that it is the responsibility of Contractor to determine the correct scale. The State Prevailing Wage Rates may be obtained from the California Department of Industrial Relations ("DIR") pursuant to California Public Utilities Code, Sections 465, 466, and 467 by calling 415-703-4774. Appropriate records demonstrating compliance with such requirement shall be maintained in a safe and secure location at all times, and readily available at City's request. Contractor shall indemnify, defend, and hold City and its elected and appointed boards, members, officials, officers, agents, representatives, employees, and volunteers harmless from and against any liability, loss, damage, cost or expenses (including but not limited to reasonable attorneys' fees, expert witness fees, court costs, and costs incurred related to any inquiries or proceedings) arising from or related to (i) the noncompliance by Contractor or any party performing the Services of any applicable local, state, and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, the requirement to pay state prevailing wages and hire apprentices); (ii) the implementation of Section 1781 of the Labor Code, as the same may be amended from time to time, or any other similar law; and/or (iii) failure by Contractor or any party performing the Services to provide any required disclosure or identification as required by Labor Code Section 1781, as the same may be amended from time to time, or any other similar law. It is agreed by the Parties that, in connection with performance of the Services, including, without limitation, any and all public works (as defined by applicable law), Contractor shall bear all risks of payment or non-payment of prevailing wages under California law and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law. Contractor acknowledges and agrees that it shall be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with such laws. Contractor shall require the same of all subcontractors.

7.3 Licenses and Permits. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, and subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

SECTION 8. TERMINATION AND MODIFICATION.

8.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Contractor.

8.2 Termination by Contractor. Contractor may cancel this Agreement upon 30 days' written notice to City.

8.3 Consequences of Termination. In the event of termination, Contractor shall be entitled to compensation for the Services performed up to the date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or City in connection with this Agreement.

8.4 Extension. City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Contractor understands and agrees that, if City grants such an extension, City shall have no obligation to provide Contractor with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Contractor for any otherwise reimbursable expenses incurred during the extension period.

8.5 Amendments. The Parties may amend this Agreement only by a writing signed by all the Parties.

8.6 Assignment and Subcontracting. City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in Contractor's proposal, without prior written approval of the Contract Administrator. In the event that key personnel leave Contractor's employ, Contractor shall notify City immediately.

8.7 Survival. All obligations arising prior to the expiration or termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the expiration or termination of this Agreement.

8.8 Options upon Breach by Contractor. If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all of the following:

- a. Immediately terminate this Agreement;
- b. Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
- c. Retain a different Contractor to complete the Services described in Exhibit A; and/or
- d. Charge Contractor the difference between the cost to complete the Services described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the Services.

SECTION 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Contractor's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of City. Contractor hereby agrees to deliver those documents to City upon the expiration or termination of this Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for City and are not necessarily suitable for any future or other use. Any use of such documents for other projects by City shall be without liability to Contractor. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports, and other documents are confidential and will not be released to third parties without prior written consent of both Parties unless required by law.

9.2 DOES NOT APPLY TO ANIMAL CONTROL (FIELD SERVICES).

9.3 Contractor's Books and Records. Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for the Services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Contractor under this Agreement. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible.

9.4 Inspection and Audit of Records. Any records or documents that Section 9.3 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

SECTION 10. MISCELLANEOUS PROVISIONS.

10.1 Attorneys' Fees. If either Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and expenses including costs, in addition to any other relief to which that Party may be entitled; provided, however, that the attorneys' fees awarded pursuant to this Section shall not exceed the hourly rate paid by City for legal services multiplied by the reasonable number of hours spent by the prevailing Party in the conduct of the litigation. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 Applicable Law; Venue. The internal laws of the State of California shall govern the interpretation and enforcement of this Agreement. In the event that either Party brings any

action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in Riverside County.

10.3 Severability. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

10.4 Section Headings and Subheadings. The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

10.5 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.6 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.7 Contractor Representative. All matters under this Agreement shall be handled for Contractor by Monica Wylie ("Contractor's Representative"). The Contractor's Representative shall have full authority to represent and act on behalf of Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

10.8 City Contract Administration. This Agreement shall be administered by a City employee, Molly Binnall, Management Analyst ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his designee. The Contract Administrator shall have the power to act on behalf of City for all purposes under this Agreement. Unless otherwise provided in this Agreement, Contractor shall not accept direction or orders from any person other than the Contract Administrator or his designee.

10.9 Notices. Any written notice to Contractor shall be sent to:

ANIMAL FRIENDS OF THE VALLEY
ATTN: Monica Wylie
33751 MISSION TRAIL
WILDOMAR, CA 92595

Any written notice to City shall be sent to the Contract Administrator at:

City of Menifee
29844 Haun Road
Menifee, CA 92586
Attn: Molly Binnall, Management Analyst

with a copy to:

City Clerk
City of Menifee
29844 Haun Road
Menifee, CA 92586

10.10 DOES NOT APPLY TO CITY OF MENIFEE: FISCAL YEAR 2020/21 ANIMAL FIELD SERVICES

10.11 Rights and Remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

10.12 Integration. This Agreement, including the scope of services attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

10.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 Execution of Contract. The persons executing this Agreement on behalf of each of the Parties hereto represent and warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound.

10.15 Nondiscrimination. Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that in the performance of this Agreement there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.

10.16 No Third Party Beneficiaries. With the exception of the specific provisions set forth in this Agreement, there are no intended third-party beneficiaries under this Agreement and no such other third parties shall have any rights or obligations hereunder.

10.17 Nonliability of City Officers and Employees. No officer, official, employee, agent, representative, or volunteer of City shall be personally liable to Contractor, or any successor in interest, in the event of any default or breach by City or for any amount which may become due to Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

10.18 No Undue Influence. Contractor declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of City shall receive compensation, directly or indirectly, from Contractor, or from any officer, employee, or agent of Contractor, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement.

10.19 No Benefit to Arise to City Employees. No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or has responsibilities with respect to this Agreement during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for the Services to be performed under this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have executed and entered into this Agreement as of the Effective Date.

CITY OF MENIFEE


Armando G. Villa, City Manager


Attest:

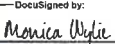

Sarah A. Manwaring, City Clerk

Approved as to Form:


Jeffrey T. Melching, City Attorney

CONTRACTOR

DocuSigned by:

217258721100483
Tammi Boyd, President

DocuSigned by:

Monica Wylie, Executive Director

[Note: 2 officer's signatures required if Contractor is a corporation]

EXHIBIT A

SCOPE OF SERVICES

Contractor shall provide comprehensive animal control (Field Services) in the not to exceed amount of **TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS AND ZERO CENTS DOLLARS (\$225,000.00)** as outlined in the following pages.

1. Understanding

Animal Friends of the Valleys (AFV) is desirous of providing a full range of animal control services to Menifee (City). AFV's purpose is the safeguarding of the health and safety of the population of the City of Menifee and the health and safety of its domestic animals, and for the purpose of promoting the humane treatment of animals and the stimulation of public support for enforcement of the city ordinances relating to animal control.

2. Methodology and Scope of Work

- (a) **Field service assistance.** Respond to all calls for field service assistance in accordance with the priority of call policy as described in **Exhibit B**, attached hereto.

The animal control officers will stagger the times and days that they are in the city to give the best coverage for Menifee. The hours of service per week will total a minimum of 80 hours of field service.

Assist law enforcement, fire department, and Fish & Game as requested and in extreme situations that arise such as the removal of vicious dogs in drug raids, cock fighting, organized dog fighting, evacuation of animals during disasters, etc.

Investigate and pursue action on complaints of public nuisances, leash law violations, and barking dog complaints. Hold hearings in compliance with municipal codes regarding public nuisances and potentially dangerous/vicious animals.

- (b) **Impoundment.** Impound all animals picked up at large and collect such impound fees as may be established from time to time by resolution of the City Council.
- (c) **Proper Care and Treatment.** Provide care and treatment to any stray or abandoned animal in accordance with the provision of Penal Code of the State of California 597.1, 597e, and 597f.
- (d) **Animal Bites.** Investigate reported animal bites. AFV may initially receive animal bite reports by telephone, but shall respond in person to all reported bites by dogs, cats or by suspected rabid or wild animals. As part of the investigation, AFV shall take appropriate steps consistent with the circumstances of each separate incident to locate and quarantine the suspected animal(s) and/or assist the complained and/or injured party(ies) to trap the suspected animal(s). AFV shall contact and interview the bite victim (or the victim's parent or guardian in the case of a minor) as part of the bite investigation procedure. Bite reports shall indicate who reported the bite incident.

- (e) **Quarantine.** Quarantine, as prescribed by State Law and Ordinances, all animals suspected to be rabid and/or that have bitten a person or other animal. Animals may be quarantined at home with a mandatory three time visit by an animal control officer or at the shelter in accordance with policy, at the officer discretion. All animals shall receive proper veterinary care and proper nutrition.

AFV shall comply with and complete the annual report of local rabies control activities to the county and the state as required for the City.

- (f) **Stray Animal Complaints.** Investigate and pursue action on complaints and/or reports of potential violations of Municipal Code relating to animals, including unnecessary noise, in accordance with such procedures adopted by the City; respond to requests from the Fire Department and contract law enforcement provider for assistance with animal related situations.
- (g) **Barking Dog Complaints.** Respond to and process barking dog complaints (public nuisances) in accordance with city ordinance. Hold public nuisance hearings for barking dog complaints that have failed to be abated.
- (h) **Dead Animals.** Remove dead animals from the public right-of-way within City limits and from other areas upon request. In the event that such animal is on a state highway, AFV shall immediately call CALTRANS for the removal of such animal.
- (i) **Trapping.** Assist city residents in the removal of domestic or wild animals from privately owned traps within twenty four (24) hours of being notified. Trapping may not be performed on Friday or Saturday. Assist city residents in the setting of, trapping and removal of domestic and wild animals from public and private property within five (5) days.
- (j) **Traps.** AFV will advise, assist and may set traps and provide a trapping program for an animal at large or a wild animal on public or private property. AFV may provide traps for a rental fee to City residents or City may purchase traps to be used only for city residents. All traps will be available to city residents on a first come, first served basis. AFV shall not be required to stay on the property and monitor the trap unless the Executive Director or the responding Animal Control feels there is a danger to human or the animal's life.
- (k) **Return of Impounded Animals.** AFV encourages the return of any lost/stray animal to the rightful owner in the field, subject to the appropriate payment of impound fees. AFV Officers and staff will make every effort to reunite each stray animal to their owner.
- (l) **Licenses for Dogs, Kennels, and Catteries.** AFV shall continue to implement a comprehensive licensing program including conducting dog license inspections. AFV shall issue dog licenses with appropriate proof of rabies vaccinations. AFV

shall issue licenses to operate dog kennels and catteries within City, subject to approval of the City for land use and zoning requirements for said facilities, and collect fees in connection therewith. AFV shall provide all forms and tags for such licenses. AFV shall retain one half of the license fees for kennels and catteries. Area-wide canvassing will be conducted as part of the field service activity. Half of the kennel/cattery license fee shall be credited against the cost of the field service contract and reflected on each invoice for services on a monthly basis.

All fees collected for dog licenses and penalties shall be accounted for by AFV. These fees will be either credited against the cost of the contract and reflected on each invoice for services on a monthly basis or retained by AFV as part of the flat monthly fee. AFV shall retain a fee based on compensation schedule for each dog license issued.

AFV will be responsible for sending out license renewal letters for individual dogs. AFV will be responsible for keeping the license database current for City residents regarding their dog licenses. AFV will be responsible for sending out cattery and kennel license renewals and performing all inspections of the premises.

AFV shall verify dog license status when responding to requests for service or when responding to complaints. The Animal Control or Humane Officer, as part of said officer's regular animal control duties will conduct license inspection activities during animal control investigations so as to ascertain the number of unlicensed dogs, to license such dogs and gain compliance with license requirements.

AFV will provide a verification system whereby owners can verify the status of their animal's license by telephone.

(m) **Issuance of Warning and Citations.** AFV will enforce all appropriate provisions of the ordinance including the issuance of notices of violations or citations as necessary for violations of the provisions of said ordinance or state law. Such revenue generated would be credited against the cost of the field service contract and reflected on each invoice for services on a monthly basis.

(n) **Service to the Public.** AFV will provide service to the public on all animal matters consistent with established policies and procedures that promote courteous and efficient service and good public relations.

AFV personnel are trained to be pro-active when in the field. The Officers are trained to resolve animal related problems on the first attempt. AFV officers receive a minimum of forty (40) hours training annually.

A request for service slip will be filled out on each complaint received. It will indicate:

1. Date and time the call was received;

2. Caller's name, address and phone number;
3. Address in which the complaint is against;
4. Description of the complaint; and
5. Time and officer's name the call was dispatched to.

The officers complete a daily log. Each call is logged on the daily with the time that they arrived, left the call, and the outcome of the call. The logs are turned in at the end of each shift to the animal control supervisor. The information is available to the City and the public at all times.

Service calls are received by the AFV dispatcher. The dispatcher contacts the officer via Nextel radio. The officer prioritizes calls as they are received.

Calls will be handled on a priority basis in accordance with **Exhibit B**.

The animal control officers will transport animals in animal control vans or trucks that provide both air conditioning, ventilation and heating to the animal compartments to keep the animals comfortable. The animal control vehicles are equipped with amber lights, spotlights and a beacon for safety.

AFV will provide all equipment necessary for the officers in the field including, but not limited to:

- a. Humane traps (dog, cat, raccoon)
- b. Snake tongs
- c. Ketch-alls-6', 5' and 3'
- d. Tranquilizer rifle
- e. Pole syringe
- f. Nets
- g. Shovels
- h. Plastic bags
- i. Food and water supplies for animals onboard
- j. Blankets and towels
- k. Nextel radios for communication
- l. Flashlights
- m. PPE equipment
- n. Tranquilizer (Anased)
- o. Sodium Pentobarbital
- p. Leashes
- q. Appropriate forms and paperwork
- r. Carriers

After hour calls are received by a local answering service. The calls are then dispatched to the on-call officer.

In the event that the phone system at the shelter should be inoperable for a period, the calls received from the public will be transferred to and answered by the local answering service and dispatched to the officers.

(o.) **Responding to Crowing Fowl Complaints.** AFV will handle crowing fowl calls as a public nuisance. AFV will handle calls accordingly.

(p.) **Responding to Non-Vector Related Animal Calls.** AFV will not provide vector control for rats, mice, etc. AFV will provide information to the public for vector control, bee keeping, etc. AFV will trap and remove skunks, opossums, raccoons, etc.

(q.) **Potentially Dangerous Dog Hearings.** AFV will notify the dog owner(s) and the public of upcoming potentially dangerous dog hearings. AFV will conduct the hearings and make a determination based on the facts presented at the hearing. AFV will send the Order After Hearing to all participants that attending the hearing. AFV will set the guidelines for the keeping of said animal (if the dog is deemed potentially dangerous). AFV will continue to monitor the situation to ensure the guidelines are being adhered to.

If the guidelines are not adhered to AFV will impound the animal for public safety and petition the courts for a menacing dog hearing to determine the fate of the animal.

(r.) **Public Nuisance Hearings.** AFV will notify the pet owner and the public of upcoming public nuisance hearings. AFV will conduct the hearings and will make a determination based on the facts presented at the hearing. AFV will send an Order After Hearing within 10 days to the pet owner and all parties that attended the hearing.

(s.) **Animal Cruelty / Neglect Complaints.** AFV will respond immediately to all reports of animal cruelty or neglect. AFV will proceed under Penal Code 597 to prosecute all persons found to be abusing/neglecting animals. AFV will file all charges and appear in court as necessary to assist the District Attorney in the prosecution.

3. Company and Organization

Animal Friends of the Valleys is a non-profit 501(c)3 organization. AFV was formed in 1987 for the purpose of promoting humane care of animals.

AFV has been providing animal control and shelter services to the City of Lake Elsinore since October 1, 1988. AFV has sheltered the animals for Riverside County Animal Control Services (RCAC) from Corona to the San Diego border since October 1, 1988.

Over the last 32 years, AFV has been awarded the animal control and sheltering contract for the Cities of Canyon Lake, Murrieta, and Temecula. In August 2009 AFV contracted with the City of Wildomar to provide animal control and sheltering for the city's animals. AFV has provided animal control and sheltering for the Pala

& Rincon tribal halls. AFV is currently providing animal control and sheltering on an as-needed basis with the Pauma Indian tribal hall. On July 1, 2010 AFV contracted to provide animal control services to the City of Menifee.

AFV has a six-member board of directors.

AFV currently employs eighty-eight (88) full and part time dedicated employees. The animal control officers all attend the humane training academy and have all satisfied the requirements prescribed by the Commission on Peace Officer Standards and Training under Penal Code 832.

AFV has a proven track record with over thirty-two (32) years successful experience in the operation of an animal shelter. Last year AFV cared for over 8,609 dogs and cats in the shelter and served an area population of over 450,000 people.

AFV provides animal control services to the cities of Canyon Lake, Lake Elsinore, Menifee, Murrieta, Temecula, and Wildomar. Those services include, but are not limited to, enforcement of ordinances, impounding, quarantining, and isolating animals that have bitten, humane home and shelter euthanasia, licensing animals and providing databases of information about these animals.

AFV currently operates two locations. The AFV Low Cost Spay/Neuter Clinic is located at 29001 Bastron Ave. in Lake Elsinore, California approximately 15 miles from the City. The animal shelter is located at 33751 Mission Trail, Wildomar, California.

The contracted cities and county receive a direct financial benefit of the nonprofit function of AFV through our humane education, monthly low cost vaccination clinic, low income food giveaway and spay/neuter programs that are offered without additional costs to the cities and county. These programs are funded with donations made by AFV's generous charitable donors and fundraising efforts.

AFV maintains a database of information regarding animals and their owners. All information required to license an animal is entered into a fully computerized system that tracks the owner, animal, license and rabies information where it can be easily accessed. Animal control officers and supervisors keep a log of time that is spent on each city's services. The animal control department enters all calls that are received along with the outcome of the calls on the computerized system. All monies are collected and deposited into a local bank with backup paperwork filed. Monthly financial statements are prepared in conformity with generally accepted accounting principles in the United States of America.

Exhibit A

Compensation Schedule

Field Services:

Two designated animal control officers for coverage for the City, eight hours per day each. \$65.00 per hour.

After hour calls including nights, weekends, and holidays. \$97.50 per hour.

Administrative costs (such as, but not limited to, hearing officer, attending meetings, compliant resolution, etc.) \$65.00 per hour.

Two animal control vehicles, fuel, maintenance, etc. \$.95 per mile.

Pick up of Livestock - \$100.00 per head, use of horse trailer - \$65.00 per load

Licensing:

AFV shall retain \$7.00 of each individual dog license sold.

AFV shall retain ½ of all kennel/cattery licenses.

Veterinarian Services:

Emergency veterinarian services (as needed). Fee to be passed on based on charge from negotiated pricing from veterinarian.

ESTIMATED COST:

AFV estimates animal control services including field services, licensing, and veterinarian services to be estimated at:

Option 1: A monthly fee service charge of \$32,000 with a credit back for licensing/citations. This will include a 2.5% cost of living increase per year. This option consists of a total year amount \$384,000, with an offset of licenses/citations collected in the estimated amount of \$150,000, netting estimate cost of \$234,000 per year.

Option 2: A flat monthly charge of \$19,500, with AFV retaining all licensing/citations fees collected for the month. This option consists of a total yearly amount \$234,000 giving the City a flat amount that can be budgeted for each month. No cost of living increase.

Exhibit B Priority of Field Services

An Animal Control Officer will respond to medical emergencies and other emergencies involving danger to humans within 30 minutes or less during regular service hours, Monday through Friday, 8:00 a.m. - 5:00 p.m. and within 60 minutes or less after regular service hours, on Saturdays and Sundays and holidays. Response time to non-emergency calls will be within 24 hours. Barking dog and public nuisance complaints will be handled within 72 hours.

Emergency calls - During regular service hours

PRIORITY ONE: To be handled immediately.

- a. Animals endangering health or safety of the public
- b. Aggressive stray animals at large
- c. Animal bites, involving animals at large
- d. Sheriff, police, fire request for emergency service
- e. Animal cruelty/neglect complaints

PRIORITY TWO:

- a. Sick or injured stray animals
- b. Animals in distress
- c. Humane investigation-life threatening
- d. Livestock or equine at large

PRIORITY THREE:

- a. Dead animals on public property

Emergency calls & after regular service hours - To be handled immediately:

- a. Animals endangering health or safety of the public
- b. Sheriff, police, fire request for emergency service
- c. Aggressive stray animals at large
- d. Animal bites, involving animals at large
- e. Sick or injured stray animals
- f. Animals in distress
- g. Humane investigations- life threatening

Non-emergency calls

- a. Impound of confined stray animals
- b. Quarantine of confined, owned animals
- c. Quarantine release of biting animals
- d. Leash law enforcement
- e. Permit investigations
- f. Humane investigation- non life threatening
- g. Public nuisance investigations