

**SILICON VALLEY**  
**ANIMAL CONTROL AUTHORITY**

**AGENDA ITEM**

## **Veterinary Services Agreement**

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### **RECOMMENDED MOTION**

That the Professional Services Agreement for Veterinary Services with Dr. Beth Wildermann, DVM for FY 2018-19 be received and filed.

### **DISCUSSION**

Dr. Beth Wildermann will provide veterinary care.

### **DOCUMENTS ATTACHED**

Professional Services Agreement with Dr. Beth Wildermann, DVM

### **FISCAL IMPACT**

\$30,000 of the Maddie's Fund Pet Adoption Days Grant

**AGREEMENT FOR PROFESSIONAL SERVICES**

**between**

**SILICON VALLEY ANIMAL CONTROL AUTHORITY**

**and**

**DR. BETH WILDERMANN, DVM**

THIS CONTRACT is entered into this 4<sup>th</sup> day of April, 2018, by and between the SILICON VALLEY ANIMAL CONTROL AUTHORITY, hereinafter called AUTHORITY, and Dr. Beth Wildermann, hereinafter called CONTRACTOR. The parties agree as follows:

**1. DUTIES.** CONTRACTOR agrees to exercise special skill to accomplish the following results: provide veterinary medical services, including, but not limited to, surgical procedures at 3370 Thomas Road, Santa Clara, CA 95054, or other location as directed by the AUTHORITY for the AUTHORITY.

**2. COMPENSATION.** In consideration for CONTRACTOR performing such services, AUTHORITY agrees to pay CONTRACTOR as set forth in "Scope of Services and Schedule of Fees" attached hereto as Exhibit "A" and incorporated herein by this reference. The payments made by AUTHORITY under this Agreement will be the amounts charged for Services provided and billed by CONSULTANT, subject to verification by AUTHORITY, pursuant to the hourly rates set forth in the Schedule of Fees supplied in writing by CONSULTANT and maintained on file with AUTHORITY at the time the Services are provided.

CONTRACTOR shall bill AUTHORITY on a monthly basis for the Services provided by CONTRACTOR during the preceding month, subject to verification by AUTHORITY. Payment to CONTRACTOR for Services will be made within thirty (30) days of AUTHORITY's receipt of invoice.

**3. TERM.** The term of this contract shall be: July 1, 2018 to June 30, 2019.

**4. EARLY TERMINATION.** Either party hereto may terminate this contract at any time by giving thirty (30) days written notice to the other party.

**5. INDEMNIFICATION FOR DAMAGES, TAXES AND CONTRIBUTIONS.** CONTRACTOR shall exonerate, indemnify, defend, and hold harmless AUTHORITY (which for the purpose of paragraphs 5 and 6 shall include, without limitation, its officers, agents, employees and volunteers) from and against:

- A.** Any and all claims, demands, losses, damages, defense costs, or liability of any kind or nature which the AUTHORITY may sustain or incur or which may be imposed upon it for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with the CONTRACTOR'S performance under the terms of this Agreement, excepting any liability arising out of the sole negligence of the AUTHORITY. Such indemnification includes any damage to the person(s), or property(ies) of CONTRACTOR and third persons.

- B. Any and all Federal, State and Local taxes, charges, fees, or contributions required to be paid with respect to CONTRACTOR and CONTRACTOR'S officers, employees and agents engaged in the performance of this Agreement (including, without limitation, unemployment insurance, social security and payroll tax withholding), excepting on site DEA license and premise permit.

6. **INSURANCE.** CONTRACTOR, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain at minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects AUTHORITY and any insurance or self-insurance maintained by the AUTHORITY shall be excess of CONTRACTOR'S insurance coverage and shall not contribute to it.

**A. Types of Insurance and Minimum Limits**

(1) Worker's Compensation in the minimum statutorily required coverage amounts. This insurance coverage shall not be required if the CONTRACTOR has no employees and certifies to this fact by initialing here                     .

(2) Automobile Liability Insurance for each of CONTRACTOR'S vehicles used in the performance of this Agreement, including owned, non-owned (e.g. owned by CONTRACTOR'S employees), leased or hired vehicles, in the minimum amount of \$500,000 combined single limit per occurrence for bodily injury and property damage. This insurance coverage shall not be required if vehicle use by the CONTRACTOR is not a material part of performance of this Agreement and CONTRACTOR and AUTHORITY both certify to this fact by initialing here                     .

**B. Other Insurance Provisions**

(1) If any insurance coverage required in this Agreement is provided on a "Claims Made" rather than "Occurrence" form, CONTRACTOR agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement (hereinafter "post agreement coverage") and any extensions thereof. CONTRACTOR may maintain the required post agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post agreement coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Agreement. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this Agreement in order to purchase prior acts or tail coverage for post agreement coverage shall be deemed to be reasonable.

(2) All required Automobile and Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following clause:

"The AUTHORITY, its officials, employees, agents and volunteers are added as an additional insured as respects the operations and activities of, or on behalf of, the named insured performed under Agreement with the AUTHORITY."

(3) All required insurance policies shall be endorsed to contain the following clause: "This insurance shall not be canceled until after ten (10) days prior written notice has been given to:

**Silicon Valley Animal Control Authority  
Attn: Dan Soszynski  
3370 Thomas Road  
Santa Clara, CA 95054**

(4) CONTRACTOR agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide the AUTHORITY on or before the effective date of this Agreement with Certificates of Insurance for all required coverages. All Certificates of Insurance shall be delivered or sent to:

**Silicon Valley Animal Control Authority  
Attn: Dan Soszynski  
3370 Thomas Road  
Santa Clara, CA 95054**

7. **EQUAL EMPLOYMENT OPPORTUNITY.** During and in relation to the performance of this Agreement, CONTRACTOR agrees as follows:

**A.** The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, sexual orientation, age (over 18), veteran status, gender, pregnancy, or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to, the following: recruitment, advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training (including apprenticeship), employment, upgrading, demotion, or transfer. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

**B.** If this Agreement provides compensation in excess of \$50,000 to CONTRACTOR and if CONTRACTOR employs fifteen (15) or more employees, the following requirements shall apply:

(1) The CONTRACTOR shall, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard of race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, sexual orientation, age (over 18), veteran status, gender, pregnancy, or any other non-merit factor unrelated to job duties. Such action shall include but not be limited to the following: recruitment, advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training (including apprenticeship), employment, upgrading, demotion, or transfer. In addition, the CONTRACTOR shall make a good faith effort to consider Minority/Women/Disabled Owned Business Enterprises in CONTRACTOR'S solicitation of goods and services.

(2) In the event of the CONTRACTOR'S non-compliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders said CONTRACTOR may be declared ineligible for further agreements with the AUTHORITY.

(3) The CONTRACTOR shall cause the foregoing provisions of this Subparagraph 7B. To be inserted in all subcontracts for any work covered under this Agreement by a subcontractor compensated more than \$50,000 and employing more than fifteen (15) employees, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

**8. INDEPENDENT CONTRACTOR STATUS.** CONTRACTOR and AUTHORITY have reviewed and considered the principal test and secondary factors below and agree that CONTRACTOR is an independent contractor and not an employee of the AUTHORITY. CONTRACTOR is responsible for all insurance (workers compensation, unemployment, etc.) and all payroll related taxes. CONTRACTOR is not entitled to any employee benefits. AUTHORITY agrees that CONTRACTOR shall have the right to control the manner and means of accomplishing the result contracted for herein.

**PRINCIPAL TEST:** The CONTRACTOR rather than the AUTHORITY has the right to control the manner and means of accomplishing the result contracted for.

**SECONDARY FACTORS:** (a) The extent of control which, by agreement, AUTHORITY may exercise over the details of the work is slight rather than substantial; (b) CONTRACTOR is engaged in a distinct occupation or business; (c) In the locality, the work to be done by CONTRACTOR is done by a specialist without supervision, rather than under the direction of an employer; (d) The skill required in the particular occupation is substantial rather than slight; (e) The AUTHORITY rather than the CONTRACTOR supplies the instrumentalities, tools and work place; (f) The length of time for which CONTRACTOR is engaged is of limited duration rather than indefinite; (g) The method of payment of CONTRACTOR is by the time; (h) The work is part of a special or permissive activity, program, or project, of the regular business of the AUTHORITY (i) CONTRACTOR and AUTHORITY believe they are creating an independent contractor relationship rather than an employer-employee relationship; and (j) The AUTHORITY conducts public business.

It is recognized that it is not necessary that all secondary favors support creation of an independent contractor relationship, but rather that overall there are significant secondary factors which indicate that CONTRACTOR is an independent contractor.

By their signatures to this Agreement, each of the undersigned certifies that is his or her considered judgment that the CONTRACTOR engaged under this Agreement is in fact an independent contractor.

**9. NONASSIGNMENT.** CONTRACTOR shall not assign the Agreement without the prior written consent of the AUTHORITY.

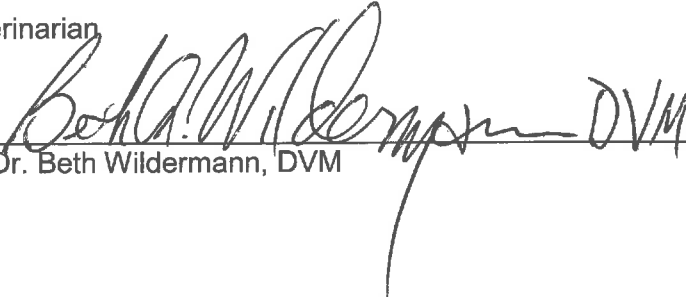
**10. ACKNOWLEDGMENT.** CONTRACTOR shall acknowledge in all reports and literature that the AUTHORITY Board of Directors has provided funding to the CONTRACTOR.

11. **RETENTION AND AUDIT OF RECORDS.** CONTRACTOR shall retain records pertinent to this Agreement for a period of not less than five (5) years after final payment under this Agreement or until final audit report is accepted by the AUTHORITY, whichever occurs first. CONTRACTOR hereby agrees to be subject to the examination and audit by the AUTHORITY Auditor-Controller, the Auditor General of the State of California, or the designee of either for a period of five (5) days after final payment under this Agreement.

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

SILICON VALLEY ANIMAL CONTROL AUTHORITY

By  \_\_\_\_\_ Date 3/27/18  
Dan Soszynski, Executive Director

Veterinarian  
By  \_\_\_\_\_ Date 4/4/18  
Dr. Beth Wildermann, DVM

## **“EXHIBIT A”**

### **SCOPE OF SERVICES AND SCHEDULE OF FEES**

#### **SCOPE OF SERVICES**

THE FOLLOWING SCOPE OF SERVICES ARE TO BE PROVIDED TO AUTHORITY BY CONTRACTOR UNDER THIS AGREEMENT:

1. Directs, coordinates and performs the screening, diagnosis, and basic and emergency medical treatment of animals in the shelter.
2. Performs or supervises the visual monitoring of impounded animals, including those that may be isolated or quarantined for signs of illness or unusual behavior.
3. Performs surgical procedures, including spay/neuters and vaccinates animals to prevent diseases.
4. Maintains the records to track the care and condition of animals.
5. Effectively communicates the condition and status of animals with staff, public and animal groups.
6. Advises staff on matters within the veterinary field.
7. Orders, maintains and controls the drugs used at the shelter and in the field.
8. Trains appropriate staff in administering first aid and vaccinations to animals, the performance of euthanasia and other paramedical duties.
9. Performs and directs staff to perform euthanasia of animals that are irremediably suffering from serious illness or severe injury, as necessary.
10. Ensures that shelter staff participates in a comprehensive disease prevention program for the animal shelter.
11. Participates in special spay/neuter or vaccination clinics.
12. Supervises staff to include: prioritizing and assigning work; assisting with performance evaluations; providing technical guidance to staff; ensuring staff are trained; and making hiring, termination and disciplinary recommendations.
13. Ensures compliance of activities to codes and all legal regulations.
14. Performs other duties of a similar nature or level.

CONTRACTOR must also have and maintain a valid California license to practice veterinary medicine in the State of California and have the ability to register with the Drug Enforcement Administration for controlled substances.

It is anticipated that two to three eight hour work days per week will be required in order to provide proper service. While a set schedule may be preferred, CONTRACTOR understands scheduled work hours may vary.

#### **SCHEDULE OF FEES**

Hourly billing rate shall be sixty dollars (\$60.00) for work performed as described in the Scope of Services.