

**SECOND AMENDMENT TO AGREEMENT
FOR ANIMAL CONTROL SERVICES AND SHELTER SERVICES
BETWEEN THE PENINSULA HUMANE SOCIETY & SPCA
AND THE COUNTY OF SAN MATEO**

This Second Amendment to Agreement For Animal Control Services And Shelter Services Between The Peninsula Humane Society & SPCA And The County Of San Mateo, dated for reference purposes only this _____ of _____, 2007, between the Peninsula Humane Society & SPCA, a California nonprofit corporation for the prevention of cruelty to animals (hereinafter, "PHS/SPCA" or "Contractor") and the County of San Mateo, a political subdivision of the State of California (hereinafter, "County").

WITNESSETH

WHEREAS, County and PHS/SPCA (collectively hereinafter, "Parties") entered into the written Agreement For Animal Control Services And Shelter Services Between The Peninsula Humane Society & SPCA And The County Of San Mateo, dated June 2003, in which PHS/SPCA agreed to perform and County agreed to compensate PHS/SPCA for performance of certain specified animal care, control and shelter services (hereinafter, "Services Agreement");

WHEREAS, said Services Agreement was originally scheduled to terminate as of July 1, 2006;

WHEREAS, County and PHS/SPCA also entered into a written Lease Agreement, dated October 12, 1971, as amended (hereinafter, "Lease Agreement") in which County leased to PHS/SPCA and PHS/SPCA leased from County certain premises located at 12 Airport Boulevard in the City of San Mateo containing approximately 8.766 acres, more or less, at the rental rate of one dollar (\$1.00) per annum for an initial period of four (4) years, ending August 31, 1975, and renewable at the option of PHS/SPCA for three (3) successive periods of twenty-five (25) years each upon written notice to the County, for use and occupation by PHS/SPCA in carrying out the animal care, control and shelter services specified in the Services Agreement and any other humane-related services provided in

connection with the prevention of cruelty to animals within the meaning of Section 501(c)(3) of the Internal Revenue Code and under laws of the State of California;

WHEREAS, on or about August 17, 1976, County and PHS/SPCA entered into an amendment of the October 12, 1971 Lease Agreement whereby PHS/SPCA relinquished a portion of the leased area (identified as Parcel B on Exhibit A) and the County added to the leased area a portion (identified as Parcel C on Exhibit A), such that the Amended Lease Agreement encompassed a lease of approximately six (6) acres of County real property.

WHEREAS, on or about August 12, 2003, County sent written notice to PHS/SPCA terminating the Parties' Lease Agreement early as of August 12, 2006, pursuant to Section 18(b) of the Lease Agreement (hereinafter, "Lease Termination Notice");

WHEREAS, on or about December 14, 2004, Parties entered into a written First Amendment To Agreement For Animal Control Services And Shelter Services Between Peninsula Humane Society & SPCA And The County Of San Mateo (hereinafter, "First Amendment") for the purpose of amending and extending the term of the Services Agreement and extending the term of the Lease Agreement by a period of approximately two (2) additional years, ending June 30, 2008;

WHEREAS, the County intends to negotiate a new long-term agreement for provision of Animal Control Services and Shelter Services, an agreement that may involve separate and independent agreements between the provider and individual Cities within the County so as to eliminate the need for a pass-through Contract Administrator although nothing in this paragraph binds any parties to such possible agreements, and a shorter-term amendment is necessary to ensure continuity of service as well as protection of public health and safety in the interim period while that long-term agreement is negotiated;

WHEREAS, both Parties desire to extend the term of the Services Agreement, as amended herein, as well as the Lease Agreement, by a period of approximately three (3) additional years, ending June 30, 2011;

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES PROVIDED HEREUNDER, THE PARTIES AGREE AS FOLLOWS:

1. **Three-Year Extensions.** Section D.1. of the Services Agreement, previously deleted and replaced in its entirety in the First Amendment, is hereby further deleted and the following shall be substituted in lieu thereof:

“1. **Term of the Agreement to Coincide with Property Lease Termination.**

- a) This Agreement shall be effective the period from July 1, 2003 through June 30, 2011. All services are subject to the terms and conditions of this Agreement.
- b) To enable Contractor to perform the services contemplated by this Agreement for the entire term, the Parties hereby agree that Contractor’s leasehold of the premises subject to the Parties’ Lease Agreement and the Lease Termination Notice shall extend through June 30, 2011, at the rental rate of one dollar (\$1.00) per annum.”

2. **Payment Amounts and Schedule.** Section C.1. of the Services Agreement as amended in the First Amendment shall be further amended to include the amounts as set forth below to cover all services, inclusive of the rabies investigation and quarantine services as described in the First Amendment as “Quarantine Services”, for the Fiscal Years 2008-09, 2009-10, 2010-11.

| <u>Fiscal Year</u> | <u>Amount</u> |
|--------------------|---------------|
| 2008-09 | \$4,750,000 |
| 2009-10 | \$4,987,500 |
| 2010-11 | \$5,236,875 |

All other provisions of this Section shall remain in full force effective as amended in the First Amendment.

3. **Contractor Responsibilities.** Exhibit B ("Contractor Responsibilities"), Section 11 ("Excluded Services") of the Services Agreement is amended to add the following exclusion to the Services Agreement to render it consistent with the parties' intent as of June 17, 2003:

- Enforcement of State law and regulations related to the prevention of cruelty to animals.

4. **Animal Control Fees.** Exhibit C ("Animal Control Fees"), Section II ("Miscellaneous Charges") of the Services Agreement is deleted in its entirety, and the following shall be substituted in lieu thereof:

"II. Miscellaneous Charges

- a) Surrender animal fees
- b) Dead animal pick-up and disposal fees in public areas
- c) Euthanasia fees
- d) Trap rental
- e) Dead animal pick-up on private property"

All other provisions of Exhibit C of the Services Agreement shall remain unchanged and in full force and effect.

5. **Effectiveness of Amendment.** Except as set forth in this Second Amendment, all other provisions of the Services Agreement and the First Amendment shall remain unchanged and in full force and effect. Moreover, no other change to the terms and conditions of the Lease Agreement or the Lease Termination Notice is intended by the Parties.

6. **Condition Precedent.** This amendment will become effective only after the County and the 20 cities within the County negotiate and adopt an amendment to their June 17, 2003 Agreement that is consistent with this Second Amendment. In the event that the County (acting in good faith) and the cities are unable to negotiate and

adopt an amendment to their June 17, 2003 Agreement that is consistent with this Second Amendment, this Second Amendment becomes void.

IN WITNESS WHEREOF, the Parties hereto have caused this Second Amendment to Agreement For Animal Control Services And Shelter Services Between The Peninsula Humane Society & SPCA And The County Of San Mateo to be executed by their duly authorized representatives on the day and year first written above.

Dated: _____ COUNTY OF SAN MATEO

By _____
Charlene A. Silva
Director, Health Department

Dated: _____ PENINSULA HUMANE SOCIETY & SPCA

By _____
Ken White, President