



COUNTY OF HUMBOLDT

AGENDA ITEM NO.
C-15

For the meeting of: July 21, 2015

Date: June 30, 2015
To: Board of Supervisors
From: Michael T. Downey, Sheriff
Subject: Approval of Agreement for Services between Humboldt County Sheriff's Office Animal Control and Henry David Trobitz, DVM and Heather Trobitz, Sole Proprietors of McKinleyville Animal Care Center

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve the Agreement for Services with Henry David Trobitz, DVM and Heather Trobitz, Sole Proprietors of McKinleyville Animal Care Center to provide veterinarian care and consultation for the Animal Shelter (Attachment 1); and
2. Authorize the Chair of the Board to execute three (3) originals of the Agreement for Services; and
3. Direct the Clerk of the Board to return two (2) fully executed originals of the Agreement to the Sheriff's Office for forwarding to interested parties.

Prepared by *Norma S. Lorenzo*
Norma S Lorenzo, Deputy Director Admin

CAO Approval *Cheryl Dillingham*

REVIEW:	Auditor _____	County Counsel <u><i>NAD</i></u>	Human Resources _____	Other _____
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TYPE OF ITEM:
 Consent
 Departmental
 Public Hearing
 Other _____

PREVIOUS ACTION/REFERRAL:
Board Order No. _____
Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor *Bass*
Seconded by Supervisor *Lovelace*
Ayes *Sundberg, Lovelace, Fennell, Bohni, Bass*
Nays _____
Abstain _____
Absent _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: *July 21, 2015*
By: *Kathy Hayes*
Kathy Hayes, Clerk of the Board

SOURCE OF FUNDING:

Budget Unit Spay/Neuter Fees and Shelter Contracts for Services with Other Agencies

DISCUSSION:

The Animal Control Division consists of Animal Control Officers and non-uniformed kennel staff under the administrative direction of a Sergeant. Regulatory enforcement provides for the health and welfare of both people and animals throughout the unincorporated areas of Humboldt County by enforcing laws and regulations pertaining to stray animals, impounding vicious and potentially dangerous dogs, enforcing compulsory rabies vaccination and quarantine ordinances, conducting animal bite investigations and licensing dogs.

This Division is responsible for the operation of the County's 14,000 square foot Animal Shelter. Domestic animals from the unincorporated areas of the County, along with those from certain contract cities, are brought to the shelter. Over 1,400 animals are brought into the shelter annually and more than 16,000 animals are licensed.

It is necessary for the Sheriff's Office Animal Control to have veterinarian care and consultation services available to properly care for the animals at the shelter. The scope of the Agreement for Services (Attachment 1, Exhibit A) includes veterinary services for spay and neuter, vaccinations, consultation and other routine procedures. The County has contracted for these services with McKinleyville Animal Care Center since the Animal Shelter opened in 2004. Other veterinary providers in the area have not expressed interest in providing these services due to the contract cap or lack of close proximity to the Shelter, making transportation of animals less cost effective.

The agreement will be effective June 1, 2014 and terminate May 31, 2016. Delay in bringing this item to the Board of Supervisors was caused by revisions in the standard contract language, as well as the contractors' delay in obtaining appropriate signatures.

FINANCIAL IMPACT:

Costs of shelter operations are offset by a number of revenue streams, including fees collected for animal licensing, spay and neuter fees, fees associated with adoption, and payments from contracted cities and state parks within Humboldt County.

The maximum compensation under this contract is \$90,000 with individual fees outlined in Exhibit B of Attachment 1 of the Agreement. There has been no increase in the contract cap limit, and these costs have been budgeted and approved with the adoption of Budget Unit 278 for fiscal years 2014-2015 and 2015-16.

The McKinleyville Animal Care Center contract meets the Board of Supervisors Strategic Plan by allowing the Sheriff's Office to continue to enforce laws and regulations to protect residents and provide community-appropriate levels of service.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board of Supervisors could choose not to approve the agreement between the County of Humboldt and the McKinleyville Animal Care Center for veterinarian care and consultation at the Humboldt County Animal Shelter; however, this is not recommended as a denial of the proposed agreement could potentially result in an interruption of services while a new provider is solicited.

ATTACHMENTS:

Attachment 1 Agreement for Services

Attachment 1

Agreement for Services

Henry David Trobitz, DVM and Heather Trobitz,
Sole Proprietors of McKinleyville Animal Care Center

AGREEMENT FOR SERVICES

This Agreement (the "Agreement") is made and entered into this 1st day of June 1, 2015 (the "Effective Date"), by and between the County of Humboldt ("COUNTY"), a political subdivision of the State of California, and Henry David Trobitz, DVM and Heather Trobitz, as sole proprietors of McKinleyville Animal Care Center, ("CONTRACTOR"), collectively referred to as "Parties".

RECITALS

WHEREAS, COUNTY desires to retain a Contractor to provide the following services:

VETERINARIAN CARE AND CONSULTATION FOR THE HUMBOLDT COUNTY ANIMAL SHELTER;

WHEREAS, such work involves the performance of professional, expert and technical services of a temporary and occasional character; and

WHEREAS, COUNTY has no employees available to perform such services and is unable to hire employees for the intermittent performance thereof;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. SCOPE OF SERVICES

CONTRACTOR agrees to provide all of the services (the "Services") described in Exhibit (A) (attached hereto and incorporated by reference herein).

2. TERM

This Agreement shall commence upon the Effective Date and shall terminate on **May 31, 2016**

3. EXTENDED TERM

The term of this Agreement may be extended for successive periods of one (1) year if the legislative bodies of both parties determine to so extend the term and written notice of such renewal is given to the other party at least three (3) months prior to expiration. The extended terms shall be referred to as First Extended Term, Second Extended Term, etcetera.

4. COMPENSATION

CONTRACTOR shall be paid for all Services provided at the applicable rates set forth in Exhibits A and B (attached hereto and incorporated by reference herein). CONTRACTOR further acknowledges and agrees that the total maximum funding approved by the COUNTY as for Services performed and costs incurred under this Agreement is in the amount of ninety thousand dollars (\$90,000.00) for any year period in which this Agreement is in effect (hereafter referred to as the "Funding Threshold"). CONTRACTOR shall notify COUNTY when the amount of Services performed hereunder have reached the amount of sixty thousand dollars (\$60,000) at which time COUNTY shall review the availability of additional funding (the "Additional Funding"), if necessary, beyond the Funding Threshold. It is understood and agreed that the COUNTY shall have no obligation to secure any such Additional Funding, nor shall CONTRACTOR have any obligation to provide Services in any given year beyond the value of the Funding Threshold and any Additional Funding secured.

5. PAYMENT

CONTRACTOR shall submit an itemized invoice monthly to the COUNTY itemizing all work completed and costs incurred as of the invoice date. Payment for work performed will be made within thirty (30) days after receipt of the invoice.

6. REPORTS, RECORDS AND AUDITS

- A. CONTRACTOR agrees to timely prepare accurate and complete financial and performance records for a minimum of five (5) years from the date of final payment under this Agreement or until all pending County, State, and Federal audits are completed, whichever is later. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work. In addition CONTRACTOR shall maintain detailed payroll records. CONTRACTOR agrees to maintain such records locally.
- B. CONTRACTOR will permit COUNTY, State and/or Federal Government to audit all books, accounts or records relating to this Agreement for the

purpose of compliance with applicable audit requirements relative to this Agreement. CONTRACTOR shall provide the COUNTY, State or Federal Governments with any relevant information required and shall permit access to its premises, during normal business hours, upon five (5) days notice.

- C. In the event of an audit exception or exceptions, the party responsible for not meeting the program requirement or requirements shall be responsible for the deficiency and for the cost of the audit. If CONTRACTOR is the party responsible for the deficiency, CONTRACTOR shall pay the cost of the audit and the deficiency within thirty (30) days of notice. If the allowable expenditures cannot be determined because CONTRACTOR'S documentation is nonexistent or inadequate, according to generally accepted accounting practices, the questionable cost shall be disallowed by COUNTY.
- D. CONTRACTOR'S rights and obligations under this provision shall continue after termination of the Agreement.

7. RESTRICTIONS, LIMITATIONS OR CONDITIONS

This Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Federal and/or State Governments that may affect the provisions, terms or funding of this Agreement.

8. INSURANCE

- A. This contract/agreement shall not be executed by COUNTY and the CONTRACTOR is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the Clerk of the Humboldt County Board of Supervisors.
- B. Without limiting CONTRACTOR'S indemnification provided herein, CONTRACTOR shall, and shall require any of its subcontractors, to take out and maintain, throughout the period of this Agreement, the following policies of insurance placed with insurers with a current A.M. Bests rating

of no less than A:VII, or its equivalent, against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of CONTRACTOR, its agents, employees or subcontractors:

- (1) Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$1,000,000 per occurrence. If work involves explosive, underground or collapse risks, XCU must be included. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit. Said policy shall contain or be endorsed with the following provisions:
 - a. The County, its officers, employees and agents, are covered as additional insured for liability arising out of the operations performed by or on behalf of CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the COUNTY, its officers, agents, and employees.
 - b. The policy shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (10 days for non-payment of the premium) to COUNTY by certified mail.
 - c. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.
 - d. For claims related to this project, the CONTRACTOR'S insurance is primary coverage to the COUNTY, and any insurance or self-insurance programs maintained by the

COUNTY are excess to CONTRACTOR'S insurance and will not be called upon to contribute with it.

- e. Any failure to comply with reporting or other provisions of the parties, including breach of warranties, shall not affect coverage provided to COUNTY, its officers, employees, and agents.
- (2) Automobile liability insurance with coverage at least as broad as Insurance Services Office form CA 0001 06092, Code 1 (any auto), for vehicles used in the performance of this Agreement with minimum coverage of not less than \$1,000,000 per accident combined single limit (CSL). Such policy shall contain or be endorsed with the provision that coverage shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (10 days for non-payment of premium) to COUNTY by certified mail.
 - (3) Workers Compensation and Employers Liability Insurance providing workers' compensation benefits as required by the Labor Code of the State of California. Said policy shall contain or be endorsed to contain a waiver of subrogation against COUNTY, its officers, agents, and employees. In all cases, the above insurance shall include Employers Liability coverage with limits of not less than one million dollars per accident for bodily injury and disease.
 - (4) Professional liability insurance/errors and omission coverage in an amount no less than \$1,000,000 combined single limit (CSL). If insurance is written on a claims made basis, Contractor agrees to maintain such insurance in effect for at least three (3) years following completion of performance under this Agreement.
- C. CONTRACTOR shall furnish COUNTY with certificates and original endorsements affecting the required coverage prior to execution of this Agreement by COUNTY. The endorsements shall be on forms as approved by the COUNTY'S Risk Manager or County Counsel. Any

deductible or self-insured retention over \$100,000 shall be disclosed to and approved by COUNTY. If CONTRACTOR does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance and CONTRACTOR agrees to pay the cost of said insurance. All coverage's shall be with insurance carriers licensed and admitted to do business in California. All coverage's shall be with insurance carriers acceptable to COUNTY.

9. HOLD HARMLESS/INDEMNIFICATION CLAUSE

- A. CONTRACTOR will indemnify, hold harmless and assume the defense of, the COUNTY, its officers, employees, agents and elective and appointive boards from all claims, losses, damages, including property damages, personal injury, death and liability of every kind, directly or indirectly arising from CONTRACTOR'S operations or from any persons directly or indirectly employed by, or acting as agent for, CONTRACTOR, excepting the sole negligence or willful misconduct of the COUNTY. This indemnification shall extend to claims, losses, damages, injury and liability for injuries occurring after completion of CONTRACTOR'S services, as well as during the progress of rendering such services.
- B. Acceptance of insurance required by this Agreement does not relieve CONTRACTOR from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by CONTRACTOR'S operations regardless if any insurance is applicable or not.

10. RELATIONSHIP OF PARTIES

CONTRACTOR shall perform all work and services as described herein as an independent CONTRACTOR. No person performing any of the work or services described herein shall be considered an officer, agent, servant or employee of

COUNTY, nor shall any such person be entitled to any benefits, including but not limited to Workers Compensation Benefits, available or granted to employees of COUNTY. CONTRACTOR shall be solely responsible for the acts or omissions of its officers, agents, employees, and subcontractors. Nothing herein shall be construed as creating a partnership or joint venture between COUNTY and CONTRACTOR.

11. ASSIGNMENT

Neither party shall assign its obligations under this Agreement.

12. SUBCONTRACTING

CONTRACTOR shall not subcontract any portion of the work required by this Agreement without prior written approval of the COUNTY.

13. LICENSING

CONTRACTOR shall maintain the appropriate licenses throughout the life of this Agreement.

14. TITLE

It is understood that any and all documents, information, and reports concerning this project prepared by and/or submitted by the CONTRACTOR shall be the property of COUNTY. CONTRACTOR may retain reproducible copies of drawings and copies of other documents. In the event of termination of this Agreement, for any reason whatsoever, CONTRACTOR shall promptly turn over all information, writing and documents to COUNTY without exception or reservation.

15. ENTIRETY OF CONTRACT

This Agreement shall constitute the entire Agreement between the parties relating to the subject matter of this Agreement, and shall supersede any previous agreements, promises, representation, understanding and negotiation, whether oral or written, concerning the same subject matter. Any and all acts which may have

already been consummated pursuant to the terms which are embodied in this Agreement are hereby ratified.

16. AMENDMENT

No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

17. TERMINATION FOR LACK OF FUNDING

COUNTY'S obligations under this Agreement are contingent upon the availability of County, State and/or Federal funds. In the event such funding is terminated or reduced, COUNTY shall, at its sole discretion, determine whether this Agreement shall be terminated or COUNTY'S maximum obligation reduced. COUNTY shall provide CONTRACTOR seven (7) days written notice of its intent to terminate this Agreement or its intent to reduce its maximum obligation under this Agreement.

18. TERMINATION FOR CAUSE

If, in the opinion of COUNTY, CONTRACTOR fails to perform the services required under this Agreement in a professional manner and within the customary time limits for such services, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation, or other law which applies to its performance herein, COUNTY may terminate this Agreement immediately, upon notice. In such event, COUNTY shall pay to CONTRACTOR an equitable portion of the total remuneration, as compensation for the portion of the work deemed acceptable by COUNTY, less the amount of any damages sustained by COUNTY as a result of CONTRACTOR'S breach of this Agreement. COUNTY shall be entitled to take possession of all studies, drawings, computations, specifications and reports insofar as they are complete and acceptable to COUNTY.

19. TERMINATION FOR CONVENIENCE

At any time and for any reason, upon forty five (45) days written notice to the

other Party, either COUNTY or CONTRACTOR may terminate this Agreement. COUNTY will pay only for those services rendered as of the date when termination is effective.

20. NOTICES

Notices shall be given to COUNTY at the following address:

**Humboldt County Sheriff's Office
826th Fourth Street,
Eureka, California, 95503**

Notices shall be given to CONTRACTOR at the following address:

**Henry David Trobitz, DVM
2151 Central Ave, P.O. Box 2757
McKinleyville, California, 95519**

Notice shall be in writing and may be given by delivering a copy of said notice to CONTRACTOR or COUNTY personally, or by mailing a copy of said notice to CONTRACTOR or COUNTY. If mailed, notices shall be deemed received two (2) days after their deposit in the United States mail, postage prepaid and addressed as set forth above.

21. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE

CONTRACTOR certifies by its signature below that CONTRACTOR is not a Nuclear Weapons Contractor, in that CONTRACTOR is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CONTRACTOR agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if CONTRACTOR becomes a nuclear weapons contractor.

22. COMPLIANCE WITH APPLICABLE LAWS

CONTRACTOR shall comply with any and all applicable federal, state and local

laws affecting the services covered by this Agreement, including, but not limited to, the Americans with Disabilities Act.

23. STANDARD OF PRACTICE

CONTRACTOR warrants that CONTRACTOR has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. CONTRACTOR'S duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.

24. JURISDICTION AND VENUE

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder or relating to this Agreement shall be litigated in the State of California and venue shall lie in the County of Humboldt.

25. BINDING EFFECT

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and assigns.

26. SEVERABILITY

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

27. NO WAIVER

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

28. INTERPRETATIONS

As both parties jointly prepared this Agreement, the language in all parts of this Agreement shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

29. ATTORNEY'S FEES

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorney's fees (including reasonable value of services rendered by County Counsel) to be fixed by the court, and such recovery shall include court costs and attorney's fees (including reasonable value of services rendered by County Counsel) on appeal, if any. As used herein, the party prevailing means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

30. MEDIA RELEASE

All press releases and informational material related to this Agreement shall receive approval from COUNTY prior to being released to the media (television, radio, newspapers, Internet). In addition, CONTRACTOR shall inform COUNTY of requests for interviews by media related to this Agreement prior to such interviews taking place. COUNTY reserves the right to have a representative present at such interviews. All notices required by this provision shall be given to the Humboldt County Sheriff or his designee.

31. NON-DISCRIMINATION

CONTRACTOR shall not discriminate in any activity pursuant to this Agreement on the basis of race, religion or religious creed, color, age (over 40), sex (including gender identity and expression, pregnancy, childbirth and related

medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), military service, or any other classification protected by federal, state, or local laws and ordinances.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first herein above written.

HENRY DAVID TROBITZ, DVM AND HEATHER TROBITZ, AS SOLE PROPRIETORS OF MCKINLEYVILLE ANIMAL CARE CENTER. - CONTRACTOR:

Henry David Trobitz

HENRY DAVID TROBITZ, DVM

5/29/15
DATE

Heather Trobitz

HEATHER TROBITZ

5/29/15
DATE

HUMBOLDT COUNTY:

Estelle Dennell

Chair, Board of Supervisors

7/21/2015
DATE

APPROVED AS TO FORM:

County Counsel

INSURANCE REQUIREMENTS REVIEWED AND APPROVED:

Risk Manager

EXHIBIT A

SCOPE OF WORK AND DUTIES

The services to be provided by the veterinary CONTRACTOR and the scope of CONTRACTOR'S duties will be to service any and all veterinary needs of the County of Humboldt during normal business hours, including, but not limited to the following:

- A. Provide consultation on animal care issues;
- B. Review the Humboldt County Animal Shelter policies and procedures;
- C. Maintain required California Board of Veterinary Medicine premise permit and Drug Enforcement Administration Controlled Substance Certificate for the COUNTY and CONTRACTOR as needed;
- D. Oversee and acquisition, storage and use of controlled substance for use in Shelter operations, including, but not limited to, Sodium Pentobarbital, or other appropriate agents for euthanasia;
- E. Provide veterinary services for injured and ill animals in the custody of the Sheriff's Animal Care and Regulations Division;
- F. Provide testimony for such examinations if a case is presented in a court of law.
- G. Provide consultation in emergency situations and in animal abuse cases.
- H. Review and audit at regular intervals the drug logs for controlled substances.
- J. Provide professional advice and skills in handling care and treatment of animals suspected of being abused.
- K. Provide staff training in proper vaccination techniques, including training required for euthanasia certification.
- L. Provide general advice regarding policies and procedures which cover the care and treatment of animals by the Animal Regulation and Care Division.
- M. Provide veterinary services for injured and ill animals that come into the custody and control of the Animal Regulation and Care Division.
- N. Provide emergency management consultation and veterinary services during times of county emergency.
- O. Provide low-cost spay and neuter and rabies vaccination services for animals that are adopted from Humboldt County Animal Shelter.

EXHIBIT B

Costs for Service rendered by a trained veterinarian employed by CONTRACTOR shall be billed and paid at a rated \$120.00 per hour, except as relates to spaying and neutering, and rabies vaccinations, which shall be at the costs set forth below.

Spaying and Neutering Services shall be billed as follows:

DOGS:

Spay (0-50 lbs.)	\$120.00
Spay (51-100 lbs.)	\$140.00
Spay (100 + lbs.)	\$170.00
Neuter (0-50 lbs.)	\$103.00
Neuter (51-100 lbs.)	\$123.00
Neuter (100 + lbs.)	\$128.00

CATS:

Spay	\$105.00
Neuter	\$73.00

Notwithstanding the above normal fees, if a dog or cat is brought to CONTRACTOR and is already spayed or neutered, the following fees will be billed and paid to compensate for lost surgery time assuming the dog or cat was not sedated.

CAT	\$45.00
DOG	\$50.00

Euthanasia cost per pet (Dog/Cat): \$38.00