

**AMENDMENT NO. 3 TO PROFESSIONAL SERVICE
AGREEMENT FOR ANIMAL SHELTER MANAGEMENT
SERVICES**
(Resolution 20-252)

THIS AMENDMENT is executed this ___ day of ___, 2023 by and between Sammie's Friends and County of Nevada. Said Amendment amends the prior Professional Services Agreement ("Agreement") between the parties entitled Animal Shelter Management Services executed on the 23rd day of June 2020 by Resolution No. 20-252, and

WHEREAS, Sammie's Friends provides animal shelter management services at the Animal Shelter in Nevada County; and

WHEREAS, the parties desire to amend their Agreement to allow for a one (1) year contract extension; and

WHEREAS, the original Agreement was not to exceed \$2,109,000 (maximum of \$703,000 per year for three years); and

WHEREAS, on June 14, 2022, the Agreement was amended to provide for an increase of \$36,000 for fiscal year 22/23 for a total amount of \$739,000 and a total Agreement amount not to exceed \$2,145,000 (Resolution 22-259); and

WHEREAS, per Resolution No. 23-254 the Board amended the Agreement (Amendment 2) to increase the maximum price from \$2,145,000 to \$3,225,000, an increase of \$1,080,000 for FY 2023-24, but the Agreement could not be executed due to Contractor's inability to fulfill insurance requirements prescribed therein by July 1, 2023; and

WHEREAS, on June 30, 2023, the parties amended the Agreement's schedule of charges and to increase the Maximum Fee Limit by \$29,750 as authorized by the Nevada County Purchasing Policy 7.3(E) which was adopted by the Nevada County Board of Supervisors on May 28, 2019, per RES 19-241 and to extend the term of the Agreement from June 30, 2023 to July 15, 2023; and

WHEREAS, County agrees to retain liability for third party animal bites; and

WHEREAS, the County will reduce contract by \$50,000 to offset increased costs of contract management and oversight to promote safety and reduce risk; and

WHEREAS, the parties agree to the amount of \$987,100 for the extension of the Agreement from July 16, 2023 to June 30, 2024, for a total Agreement amount not to exceed \$3,161,850.

NOW, THEREFORE, the parties hereto agree as follows:

1. This Amendment shall be effective as of July 16, 2023.
2. That Section 2, Payment, is hereby modified to reflect the total Agreement not to exceed amount of \$3,161,850, which includes \$2,145,000 from three previous years, \$29,750 per the June 30, 2023 amendment, and to include \$987,100 for the remainder of the 23/24 fiscal year.
3. That Section 3, Term, is hereby modified to reflect Agreement commencement date of July 16, 2023 and termination date of June 30, 2024.
4. That the Schedule of Charges and Payments, Exhibit "B" is amended and replaced to include the attached Exhibit "B".

5. That Insurance, Exhibit "C" shall be amended and replaced to include the attached Exhibit "C".
6. That the Budget, Attachment "E" shall be amended and replaced to include the attached Attachment "E".
7. That Section 12, Hold Harmless and Indemnification Agreement, is hereby amended to include the following provision: notwithstanding the foregoing, the County of Nevada agrees to retain liability for third party animal bites, and hereby agrees to indemnify, defend and hold harmless Sammie's Friends from any and all liabilities, claims, demands damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) for third party animal bites arising from animal shelter operations pursuant to this Agreement. Sammie's Friends agrees to indemnify, defend and hold harmless the County of Nevada from any and all liabilities, claims, demands damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) for animal bites to personnel (directors, officers, employees, agents, and volunteers) arising from animal shelter operations pursuant to this Agreement.
8. That in all other respects the Agreement of the parties shall remain in full force and effect except as amended herein.

APPROVED AS TO FORM:

By: _____
Katharine L. Elliott
County Counsel

By: _____
Honorable Ed Scofield
Chair of the Board of Supervisors

ATTEST:

CONTRACTOR:

By: _____
Julie Patterson Hunter
Clerk of the Board of Supervisors

By: _____
Fran Cole
Executive Director

By: _____
Bobbi Giudicelli
Board President

EXHIBIT “B”

SCHEDULE OF CHARGES AND PAYMENTS

In consideration for the services as set forth in Exhibit “A”, County shall pay Contractor an amount not to exceed \$987,100 for the period July 16, 2023 to June 30, 2024.

Billing and Payment:

Payments will be made in 12 equal installments, which shall be due and payable as of the 5th of each month and are subject to the terms of this amended Agreement. Payments are conditional upon compliance with the terms of contract including this amendment, including meeting conditions of financial reporting. Both County and Contractor shall work in good faith to resolve any issues in a timely manner. Payments may be delayed or withheld if contractual obligations are not met.

By the 15th of the month proceeding the month services are to be provided, the contractor shall submit an invoice and the following documentation for the preceding month:

- A Financial Report that includes monthly and annual (year to date), profit and loss (revenue and expenditure) information with back-up information generated through the Contractor’s finance system that reconciles to the invoice amount. Additionally, the Contractor should include a payroll summary (noting staffing positions, hours worked, and amount paid). The County may request additional back-up documentation (such as detailed payroll information/timecards, copies of receipts or invoices paid, etc.). If requested additional detail is not provided in a timely manner, future invoice payments may be delayed. If the County anticipates withholding a payment, Contractor shall be notified.
- Monthly Animal **Intake, Outcome, and Summary** reports (per the Existing Contract, per Exhibit A and B, and as noted in Attachment B)
- **New for FY 2023-24** - Year to Date Summary of Shelter Activity including total time each animal spends in the Shelter, status and length of time of Animals in Foster homes, as well as intake and outcome information.
- Sammie’s Friends will ensure that all shelter staff are trained annually based on their respective job classifications in accordance with state standards. Training received for each staff member will be documented by Shelter management staff and shared with Nevada County at its request.
- Sammie’s Friends agrees to vaccinate every animal at intake in line with ASV Standards of Care.
- Sammie’s Friends will notify Nevada County in writing whenever an animal on the premise is known to be aggressive or has shown tendency toward aggressive behavior and provide a report on how Shelter staff will ensure the animal(s) will not endanger staff or the public.

The FY 2023-24 Contract Amount is based on the following staffing schedule, not including Executive/Shelter Director:

Staffing for Nevada County Animal Shelter									
Position	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Hrs/wk	FTE
Operations Manager	8	8	8	8	8			40	1.00
Operations Administrator	8	8	8	8	8			40	1.00
Accounting Specialist	5.6	5.6	5.6	5.6	5.6			28	0.70
Canine Office Coordinator/Livestock Coordinator	7				7	7	7	28	0.70
Feline Office Coordinator		8	8	8	8	8		40	1.00
Adoption Specialist/Animal Care Attendant				8	8	8		24	0.60
Kennel Supervisor/Animal Care Attendant		8	4	8	8	4		32	0.80
Front Office Associate/Animal Care Attendant		8	5					13	0.325

Front Office Associate/Animal Care Attendant	4	8	8	8				28	0.70
Front Office Associate/Animal Care Attendant	8			8	8	8		32	0.80
Front Office Associate/Animal Care Attendant	8	8			8		8	32	0.80
Animal Care Attendant						5	5	10	0.25
Animal Care Attendant	8		8					16	0.40
Animal Care Attendant	4	8	4					16	0.40
Animal Care Attendant							8	8	0.20
Animal Care Attendant			8	8	8			24	0.60
Animal Care Attendant	8		8		8	4		28	0.70
Animal Care Attendant	8	8				8		24	0.60
Media Specialist	5			8				13	0.325
Weekly Totals								476	11.90

The County is not obligated to pay for salary and benefit costs for additional positions or hours worked in excess of this schedule.

If the Contractor desires modifications either to the staffing schedule or to shift budget among major expenditure categories (such as Salaries & Benefits and Services and Supplies) in excess of 10% of the attached Budget (Attachment E, as amended), a written request will be provided to the County in advance for approval, with justification for the desired change. The County can accept the change at its discretion, as long as there is no modification to the not to exceed contract amount.

Other Considerations:

Veterinary Care

To lower the costs of veterinary care at the Shelter, the Contractor uses selected veterinarians who offer discounted rates or veterinarians who perform services without charge. If the County seizes an animal due to imminent danger to the animal's health, the Contractor shall provide services for the animal in an appropriate amount of time based on the condition of the animal. The Contractor will be responsible for providing care to all animals at Contractor's cost.

If the County requires immediate care for an animal and the Contractor is not able to provide that care in a timely fashion the County may choose to use an alternative veterinarian for its care other than the Contractor's chosen veterinarian. The County and Contractor will meet on a case-by-case basis to discuss the reason an alternate veterinarian was chosen and who will bear the cost for said veterinary bill.

Submit all invoices to: Nevada County Information and General Services
 Attn: IGS Admin
 Email: IGSadmin@nevadacountyca.gov
 950 Maidu Avenue, Suite 129
 Nevada City, CA 95959

EXHIBIT C

INSURANCE REQUIREMENTS

The Contractor understands and agrees the County has elected to self-insure for third party animal bites in accordance with California Government Code Section 990. The County agrees to name Contractor as an Additional Covered Party under any memorandum of coverage the County participates in for excess coverage. All claims for third party animal bites arising from shelter operations will be adjudicated under the Government Tort Claims Act; claims against the County for third party animal bites should be presented as a government claim to the Clerk of the Board Eric Rood Administrative Center 950 Maidu Avenue, Suite 200 Nevada City, CA 95959. (Gov. Code Section 900, et. Seq.) Internet link: <https://www.mynevadacounty.com/869/Filing-Claims-Against-the-County>

Insurance. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees. Coverage shall be at least as broad as:

- (i) **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- (ii) **Automobile Liability** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
- (iii) **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
- (iv) **Professional Liability (Errors and Omissions)** Insurance covering animal rescue, sheltering, and training errors and omissions with animal bailee coverage, and with limits no less than **\$1,000,000** per occurrence or claim, **\$1,000,000** aggregate.
- (v) **Director and Officers (D&O) Liability Insurance** covering breach of fiduciary duty, misrepresentation of company assets, misuse of company funds, fraud, failure to comply with workplace laws, theft of intellectual property, and lack of corporate governance with limit no less than **\$1,000,000** per occurrence or claim, **\$1,000,000** aggregate.
- (vi) If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

Other Insurance Provisions: The insurance policies are to contain, or be endorsed to contain, the following provisions:

- (i) **Additional Insured Status: The County, its officers, employees, agents, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of the work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 25, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used.)
- (ii) **Primary Coverage** For any claims related to this contract, the **Contractor's insurance shall be primary** insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, employees, agents, and volunteers. Any insurance or self-insurance

maintained by the County, its officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

- (iii) **Notice of Cancellation** This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Nevada.
- (iv) **Waiver of Subrogation** Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.
- (v) **Sole Proprietors** If Contractor is a Sole Proprietor and has no employees, they are not required to have Workers Compensation coverage. Contractor shall sign a statement attesting to this condition, and shall agree they have no rights, entitlements or claim against County for any type of employment benefits or workers' compensation or other programs afforded to County employees.
- (vi) **Deductible and Self-Insured Retentions** must be declared to and approved by the County. The County may require the Contractor to provide proof of ability to pay losses and related investigations, claims administration, and defense expenses within the retention. The Policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.
- (vii) **Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.
- (viii) **Claims Made Policies** if any of the required policies provide coverage on a claims-made basis:
 - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - c. If the coverage is canceled or non-renewed, and not replaced with another **claims-made policy form with a Retroactive Date**, prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of **five (5)** years after completion of contract work.
- (ix) **Verification of Coverage** Contractor shall furnish the County with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to County before work begins. However, failure to obtain and provide verification of the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- (x) **Subcontractors** Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format at least as broad as CG 20 38 04 13.
- (xi) **Special Risks or Circumstances** County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
- (xii) **Conformity of Coverages** If more than one policy is used to meet the required coverages, such as an umbrella policy or excess policy, such policies shall be following form with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of policies be different.
- (xiii) **Premium Payments** The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

- (xiv) **Material Breach** Failure of the Contractor to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.
- (xv) **Certificate Holder** The Certificate Holder on insurance certificates and related documents should read as follows:

County of Nevada
950 Maidu Ave.
Nevada City, CA 95959

Upon initial award of a contract to your firm, you may be instructed to send the actual documents to a County contact person for preliminary compliance review.

Certificates which amend or alter the coverage during the term of the contract, including updated certificates due to policy renewal, should be sent directly to Contract Administrator

Attachment E, Amended : Shelter Budget

	2022 Sammie's Friends (Actuals)	22/23 Budget Allocation per Contract	23/24 SF Requested Allocation	% Increase - 22-23 Contract vs 23-24 Proposed	Note
Revenues					
County Contract	\$772,228	\$714,000	\$987,100		
Wilson Trust		\$24,999	\$0		
Adoption Fees	\$76,261	\$63,000	\$76,261		
Other Revenue					
OTI Fees	\$1,060	\$6,300	\$1,060		
Kennel Fees	\$6,884	\$16,800	\$6,884		
Quarantine Fees	\$315		\$315		
IAL Fees	\$3,180		\$3,180		
Donations	\$72,341		\$70,000		
Sales	\$3,886		\$3,886		
Cost of Goods Sold	\$9,308		\$9,350		
<i>Other Rev. Subtotal</i>	<i>\$89,030</i>	<i>\$44,000</i>	<i>\$94,675</i>		
Sammie's Contribution	\$230,000	\$230,000	\$372,498		Medical Cost + overage
Subtotal	\$1,175,463	\$1,099,099	\$1,530,534		
<i>County</i>	<i>\$772,228</i>	<i>\$738,999</i>	<i>\$987,100</i>	<i>33.6%</i>	
<i>Sammie's Friends</i>	<i>\$230,000</i>	<i>\$230,000</i>	<i>\$372,498</i>	<i>62.0%</i>	
<i>Adoption Fees</i>	<i>\$76,261</i>	<i>\$63,000</i>	<i>\$76,261</i>	<i>0.0%</i>	
<i>Other Revenues</i>	<i>\$89,030</i>	<i>\$44,000</i>	<i>\$94,675</i>	<i>115.2%</i>	
Expenses					
Class I					
Worker's Compensation	\$26,123	\$29,000	\$30,000		
Finance Director		\$65,000			
Hourly Wages	\$497,490	\$332,797	\$470,000		
Shelter Director		\$85,000	\$70,000		
Employee Tax	\$45,526	\$45,000	\$63,400		
Additional proposed					
Medical Benefits	\$42,373		\$45,000		
Shelter Management			\$175,000		
Subtotal Class I	\$611,511	\$556,797	\$853,400	53.3%	
Class II					
<u>Care and Feeding of Animals</u>					
Spay & Neuter		\$45,100			
Community	\$84,998		\$0		
County	\$94,029		\$103,432		
<i>Subtotal Spray & Neuter</i>	<i>\$179,027</i>	<i>\$45,100</i>	<i>\$103,432</i>		
Animal Medical		\$47,000			SF Expenses not included in Budget

Community	\$145,722		\$0		SF Expenses not included in Budget
County (Medicine)	\$121,535		\$50,800		Medicine and Med Supplies
Contractor Medical		\$230,000	\$230,000		SF Medical Costs
<i>Subtotal Animal Med.</i>	<i>\$267,258</i>	<i>\$230,000</i>	<i>\$280,800</i>		
Food	\$66,633	\$49,500	\$72,000		
Litter Supplies	\$5,259	\$7,500	\$4,000		
Grooming	\$510		\$500		
Contracts	\$500	\$2,400	\$0		
Accounting	\$19,818	\$10,000	\$0		Moved to Contract Exp
Animal Rehabilitation	\$38,170	\$23,300	\$40,000		
<i>Subtotal Care & Feeding</i>	<i>\$577,175</i>	<i>\$369,700</i>	<i>\$500,732</i>		
<u>Other Operations Exp</u>					
<i>Utilities</i>					
Garbage	\$7,591	\$7,427	\$8,232		
Electric	\$19,040	\$10,000	\$20,649		
Propane	\$2,697	\$10,000	\$2,925		
Water	\$641	\$600	\$696		
<i>Subtotal Utilities</i>	<i>\$29,969</i>	<i>\$28,027</i>	<i>\$32,502</i>		
Insurance	\$5,451	\$7,500	\$6,000		
Maintenance	\$16,277	\$20,000	\$17,500		
Operations (office)	\$61,314	\$5,000	\$66,200		Includes Telephone, Supplies, Dues & Subscrip, etc.
Auto	\$4,184	\$4,000	\$5,000		
Misc. Expenses/Equip & Furniture	\$4,251	\$4,000	\$5,000		
Additional Proposed Contract - Acctg. Sales Tax rlt'd to MicroChips			\$4,200		
<i>Subtotal Other Operating</i>	<i>\$91,477</i>	<i>\$40,500</i>	<i>\$143,900</i>		
Subtotal Class II	\$698,621	\$483,327	\$677,134	40%	
<i>Class I & Class II Total</i>	<i>\$1,310,133</i>	<i>\$1,040,124</i>	<i>\$1,530,534</i>	47%	
Net Income/(Loss)	(\$134,670)	\$58,975	\$0		
<i>Class I</i>	<i>\$611,511</i>	<i>\$556,797</i>	<i>\$853,400</i>	53.3%	
<i>Class II</i>	<i>\$698,621</i>	<i>\$483,327</i>	<i>\$677,134</i>	40.1%	
<i>Class I & II Total</i>	<i>\$1,310,133</i>	<i>\$1,040,124</i>	<i>\$1,530,534</i>	47.1%	