SINGLE SOURCE AWARD **BID # SS-0309-18**

Subject: Purchase of Animal Food and Litter with Purina Shelter Champions Program

Department: Animal Care and Protective Services

Description of Purchase:
Recommend approval to amend the single source award with Purina to align the period service with the contract term stated in the Purina Shelter Champions Partner Program agreement. The period of service will be for two (2) years from date of executed contract with a one (1) year renewal option. Total estimated not to exceed expenditure amount of $100,000.00 will remain unchanged.

Funding Source: ERAC011-05205 – To be executed by formal contract amendment through the Office of General Counsel

Single Source Award To: Purina

Price Justification: See Attached

Total Award: $100,000.00 **Requisition #** N/A

Attachments: Single Source Form, Contract and Previous Awards

Certification as to Single Source: Julie Adamson, Operations Director, Neighborhoods Department

THE ABOVE PURCHASE IS RECOMMENDED FOR AWARD IN ACCORDANCE WITH CHAPTER 126.206.

ANALYST: Annette Burney

For **Gregory Pease, Chief**
Procurement Division

APPROVAL OF GENERAL GOVERNMENT AWARDS COMMITTEE

"ALL AWARD ACTIONS SUBJECT TO LAWFULLY APPROPRIATED FUNDS"

CHAIRMAN ***DATE***

ACTION OF AWARDING AUTHORITY

DATE: _____

APPROVED_____ **DISAPPROVED** _____

OTHER _____

SIGNATURE OF AUTHENTICATION _____

FORM GB-114, Revised 12/2007

City of Jacksonville, Florida

Lenny Curry, Mayor

Neighborhoods Department
Animal Care and Protective Services Division
2020 Forest Street
Jacksonville, FL 32204
(904) 255-7033

ONE CITY. ONE JACKSONVILLE.

MEMORANDUM

January 24, 2018

01/23/18 10:46:05
Procurement Division

TO: Gregory Pease, Chief, Procurement Division
Finance & Administration Department

FROM: Julie Adamson, Operations Director
Neighborhoods Department

SUBJECT: **Single Source Request to Extend Award -Purina**

The Animal Care and Protective Services Division (ACPS) respectfully requests that the ~~administrative~~ award ~~SS-0208-18~~ SS-0209-18 be extended to match the contract term. The initial term of the Agreement shall ~~commends~~ commence upon signature and shall continue thereafter for a period of two (2) years unless terminated earlier as provided for this Agreement. The agreement has an automatic renewal for one (1) year term, unless either party provides notice not to renew.

Your favorable consideration of this request is appreciated. If you have questions or need additional information, please contact me at 255-7099. I have enclosed the Purina Agreement, the City's Addendum to the Agreement and the Procurement Award for your reference.

Cc: Devron Cody, Chief, Animal Care and Protective Services
Chuck McNeil, Finance Manager
Laura TaVoularis, Accounting Manager

ADDENDUM TO PURINA SHELTER CHAMPIONS PARTNER PROGRAM
BETWEEN
NESTLE PURINA PETCARE COMPANY
AND
THE CITY OF JACKSONVILLE

THIS ADDENDUM to Purina Shelter Champions Partner Program is made and entered into this 22 day of January, 2018, by and between the CITY OF JACKSONVILLE, FLORIDA, a municipal corporation (the "City"), and NESTLE PURINA PETCARE COMPANY, a foreign profit corporation with an address at 1 Checkerboard Square, Income Tax-4C, St. Louis, Missouri 63164 ("Purina").

WHEREAS, contemporaneously herewith, the parties are making and entering into the Purina Shelter Champions Partner Program (the "Agreement"); and

WHEREAS, the City's authority to make and enter into said Agreement comes from its Procurement Code, and

WHEREAS, by legislative fiat, there are certain contractual provisions that must be contained in any procurement contract of the City; and

WHEREAS, this Addendum should be executed by the parties to ensure that all lawful provisions are contained in the Agreement; now therefore

IN CONSIDERATION of the Agreement and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties agree as follows:

1. The above-stated recitals are accurate, true, and correct and are made a part hereof and are incorporated herein by this reference.

2. This Addendum shall be attached to said Agreement, shall be a part of said Agreement, and shall be binding upon the parties.

3. As required by Section 106.431, *Ordinance Code*, the City's maximum indebtedness for all products and services under the Agreement shall be a fixed monetary amount not-to-exceed ONE HUNDRED THOUSAND AND 00/100 DOLLARS ($100,000.00) for the term of the Agreement.

4. As required by Section 126.108, *Ordinance Code*, in its performance of the Agreement, Purina must comply with any and all applicable federal, state, and local laws, rules, regulations, and ordinances (hereinafter collectively referred to as the "Laws"), only with respect to the Agreement, as such Laws exist and may be amended from time to time. Such Laws shall include, but are not limited to, Chapter 119, Florida Statutes (the Florida Public Records Law), and Section 286.011, Florida Statutes (the Florida Sunshine Law).

5. Purina represents that it has adopted and will maintain throughout the term of this Agreement a policy of nondiscrimination or nonharrassment against any person with regard to race, color, sex (including pregnancy), sexual orientation, gender identity or expression, religion, political affiliation, national origin, disability, age, marital status, veteran status, or any other impermissible factor in recruitment, hiring, compensation, training, placement, promotion, discipline, demotion, transfers, layoff, recall, termination, working conditions, and related terms and conditions of employment. On written request, Purina shall permit access to its records of employment, employment advertisements, application forms, and other pertinent data and records by the Executive Director of the Community Relations Commission of City for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Agreement. Purina shall not be required to produce for inspection any records covering periods of time more than one (1) year prior to the date of this Agreement. Purina agrees that if any of the obligations of this Agreement are to be performed by a subcontractor, the provisions above shall be incorporated into and become a part of the subcontract.

6. The rights, obligations, and remedies of the parties as specified under the Agreement shall be interpreted and governed in all aspects by the laws of the State of Florida. Should any provision of the Agreement be determined by the courts to be illegal or in conflict with any law of the State of Florida, the validity of the remaining provisions shall not be impaired. Venue for litigation of the Agreement shall be in courts of competent jurisdiction located in Jacksonville, Duval County, Florida.

7. The parties agree that for the execution of the Agreement, time is of the essence. Therefore, the Agreement and all amendments thereto may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument. The parties further agree that facsimile ("fax") transmission of all signatures with originals to follow shall constitute and be evidence of an executed Agreement.

8. TERMS AND CONDITIONS OF PURINA SHELTER FEED PROGRAM AGREEMENT Sections 5 and 6 are deleted in their entirety and replaced with Attachments A & B.

9. To the extent that there is any conflict between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum shall control.

10. Public Records. In accordance with Section 119.0701, Florida Statutes, Purina shall:

(a) Keep and maintain public records required by City to perform the services; and

(b) Upon request from City's custodian of public records, provide City with a copy of the requested records or allow records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, or as otherwise provided by law; and

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if Purina does not transfer the records to City; and

(d) Upon completion of this Agreement, transfer to City at no cost all public records in possession of Purina or keep and maintain public records required by City to perform the service. If Purina transfers all public records to City upon completion of the Agreement, Purina shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Purina keeps and maintains public records upon completion of this Agreement, Purina shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to City upon request from City's custodian of public records in a format that is compatible with City's information technology systems.

The above requirements apply to a "Contractor" as defined in Section, 119.0701, Florida Statutes.

IF PURINA HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO PURINA'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT (904) 630-7678; PRR@COJ.NET; CITY OF JACKSONVILLE, PUBLIC RECORDS REQUEST, 214 N. HOGAN STREET, SUITE 1180, JACKSONVILLE, FLORIDA 32202.

[Remainder of page intentionally left blank. Signature page follows immediately.]

IN WITNESS WHEREOF, the parties hereto have executed this Addendum to said Agreement contemporaneously with said Agreement.

ATTEST:

By_____
James R. McCain, Jr.
Corporation Secretary

CITY OF JACKSONVILLE

By_____
Lenny Curry
Mayor

In accordance with Section 24.103(e), *Ordinance Code*, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement and that provision has been made for the payment of monies provided therein to be paid.

_____
Director of Finance
CITY Contract Number: _____

Form Approved:

_____
Office of General Counsel

WITNESS:

By_____
Signature

_____
Type/Print Name

_____
Title

NESTLE PURINA PETCARE COMPANY

By_____
Signature

CATHERINE SMALL
Type/Print Name

PROGRAM LEAD
Title

GC-#1171746-v1-Purina_PartnerProgram_Addendum_113017.doc

EXHIBIT A
INDEMNIFICATION

(a) City's Indemnity

1. City agrees to hold harmless, indemnify and defend Purina against any claims that the City, its members, elected officials, officers, employees or agents caused injury to persons or the death of persons or damage to or destruction of property arising out of or being incidental to City's negligent acts or omissions. It is expressly understood and agreed, by and between the parties that City's indemnity for its negligence, expressed herein, is not and shall not be construed as any alteration or waiver of sovereign immunity, in tort, beyond that which has provided by the Florida Legislature in Section 768.28 Florida Statutes.

2. With respect to any breach of or Default under this Lease, each party shall be responsible for its own costs and attorneys' and other professionals' fees, at no cost or expense to the other party. Nothing in this EXHIBIT C shall constitute a waiver by either City or Purina or limit City or Purina's right to recover with respect to any tort action against the other party, subject to the limitations and provisions of Section 768.28, Florida Statutes, which are not hereby altered, expanded or waived. In the event of any joint negligence on the part of City and Purina, any loss shall be apportioned in accordance with the provisions of the Uniform Contribution Among Tortfeasors Act (Section 768.31, Florida Statutes) and subject to the limitations and provisions of Section 768.28, Florida Statutes, which are not hereby altered, expanded or waived. This EXHIBIT C relating to indemnification shall survive the Agreement, and any holdover and/or contract extensions thereto, whether such term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Agreement.

(b) Purina's Indemnity

Purina shall hold harmless, indemnify, and defend the City of Jacksonville and City's members, officers, officials, employees and agents (collectively the "Indemnified Parties") from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs and expenses of whatsoever kind or nature, which may be incurred by, charged to or recovered from any of the foregoing Indemnified Parties for:

1. General Tort Liability, for any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the Indemnifying Parties that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the Indemnifying Parties' performance of the Agreement, operations, services or work performed hereunder; and

2. Environmental Liability, to the extent this Agreement contemplates environmental exposures, arising from or in connection with any environmental, health and safety liabilities, claims, citations, clean-up or damages whether arising out of or relating to the operation or other activities performed in connection with the Agreement; and

3. Intellectual Property Liability, to the extent this Agreement contemplates intellectual property exposures, arising directly or indirectly out of any allegation that the Services, any product generated by the Services, or any part of the Services as contemplated in this Agreement, constitutes an infringement of any copyright, patent, trade secret or any other intellectual

property right. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure within 60 days, for the Indemnified Parties a license, authorizing the continued use of the Service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to Buyer, so that the Service or product is non-infringing.

If an Indemnifying Party exercises its rights under this Agreement, the Indemnifying Party will (1) provide reasonable notice to Indemnified Parties of the applicable claim or liability, and (2) allow Indemnified Parties, at their own expense, to participate in the litigation of such claim or liability to protect their interests. **The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by any insurance provided pursuant to the Agreement or otherwise. Such terms of indemnity shall survive the expiration or termination of the Agreement.**

In the event that any portion of the scope or terms of this indemnity is in derogation of Section 725.06 or 725.08 of the Florida Statutes, all other terms of this indemnity shall remain in full force and effect. Further, any term which offends Section 725.06 or 725.08 of the Florida Statutes will be modified to comply with said statutes.

Exhibit B
INSURANCE REQUIREMENTS

Without limiting its liability under this Agreement, Purina shall at all times during the term of this Agreement procure and maintain at its sole expense during the life of this Agreement (and Purina shall require its, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Commercial General Liability	$2,000,000	General Aggregate
	$2,000,000	Products & Comp. Ops. Agg.
	$1,000,000	Personal/Advertising Injury
	$1,000,000	Each Occurrence
	$ 50,000	Fire Damage
	$ 5,000	Medical Expenses

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management. An Excess Liability policy or Umbrella policy can be used to satisfy the above limits.

Additional Insurance Provisions

A. Additional Insured: All insurance shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2026.

B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.

C. Purina's Insurance Primary. The insurance provided by Purina shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.

D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Agreement shall remain the sole and exclusive responsibility of the named insured Purina. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Agreement.

E. Purina's Insurance Additional Remedy. Compliance with the insurance requirements of this

Agreement shall not limit the liability of Purina or its Subcontractors, employees or agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Contract or otherwise.

F. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Purina shall relieve Purina of Purina's full responsibility to provide insurance as required under this Agreement.

G. Certificates of Insurance. Purina shall provide the City Certificates of Insurance that shows the corresponding City Contract Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.

H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.

I. Notice. Purina shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, Purina shall provide a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.

J. Survival. Anything to the contrary notwithstanding, the liabilities of Purina under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.

K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.

L. Special Provisions: Prior to executing this Agreement, Purina shall present this Agreement and Exhibits A & B to its Insurance Agent affirming: 1) That the Agent has personally reviewed the insurance requirements of the Agreement Documents, and (2) That the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Purina.

Purina Shelter Champions Partner Program

By selecting the "I accept the Terms & Conditions and Contract on behalf of my Shelter Organization" button, you are signing this Agreement electronically and consenting to be legally bound by its terms and conditions. You agree your electronic signature is the legal equivalent of your manual signature on this Agreement. You also represent that you are authorized to enter into this Agreement on behalf of the Shelter as indicated on the application (hereinafter, "SHELTER") and that such SHELTER will be bound by the terms of this Agreement.

This agreement and the Terms and Conditions, which are attached hereto and are incorporated herein by reference, (collectively, the "Agreement") sets forth below the agreement between Purina and **SHELTER** with respect to your participation in the Program.

1. Participation by **SHELTER** in the Program: **SHELTER** agrees to participate in the Program as outlined herein and agrees to be bound by the Terms and Conditions attached hereto.

2. Term: The initial term of this Agreement shall commence upon signature on this Agreement and shall continue thereafter for a period of two (2) years unless terminated earlier as provided for in this Agreement ("Term"). This Agreement shall automatically renew for an additional one (1) year term, unless either party provides notice to the other of its intent to terminate this Agreement not less than thirty (30) days before the end of the then current term.

3. Pet Products Discount by Purina: During the Term of this Agreement, Purina shall provide the opportunity to purchase certain discounted Purina® brand dog and cat food and litter to **SHELTER** as set forth in greater detail below (the "Pet Products Discount"). To receive the Pet Products Discount, **SHELTER** shall provide estimates of amount of product to be purchased by **SHELTER** to Purina on an annual basis. All Pet Products Discounts and any pet product purchases made by **SHELTER** as described below shall be subject to minimum and maximum order quantities as required by Purina and **SHELTER** may place up to two (2) orders maximum per month.

4. Exclusivity: In consideration for the Pet Products Discount and Purina's other agreements herein, **SHELTER** agrees that: (a) during the Term, **SHELTER** will not accept sponsorships from any company or entity directly competitive with Purina in the dog and cat food, treats and litter categories without Purina's prior written consent, which such consent may be withheld or conditioned in Purina's sole discretion; (b) **SHELTER** will name Purina as its exclusive sponsor and Pet Products provider in the dog and cat food and litter (c) **SHELTER** will exclusively feed, use, recommend Purina brand dog and cat food and Purina® Tidy Cats® brand litter at the **SHELTER** facilities and at all on and off-site adoption, fundraising, and other events. Notwithstanding the foregoing, **SHELTER** may recommend other brands of pet food to feed a particular cat or dog in order to accommodate special medical requirements specified by a licensed veterinarian; provided, however, that **SHELTER** may only feed a non-Purina brand if Purina does not offer a product that meets such medical requirements. **SHELTER** further covenants and agrees not to portray Purina in an unfavorable manner in any way to the general public or any third parties pertaining to any matters, including, but not limited to, media exposure and publicity.

5. Supply of Dog and Cat Products: Unless otherwise agreed upon by the parties in writing or an addendum hereto, the Pet Products Discount shall be provided on purchases of certain Purina ONE®, Purina Pro Plan®, Purina Cat Chow®, Purina Kitten Chow®, Purina Dog Chow® and Purina Puppy Chow® brand dry dog and cat food, Purina ONE® brand wet dog food, Friskies® and Fancy Feast® brand wet cat food, Purina Pro Plan® brand wet kitten food and Purina® Tidy Cats® brand litter. The Pet Products Discount shall be used by **SHELTER** only for the benefit of dogs and cats housed at **SHELTER**'s shelter and may not be transferred, sold, or used for any other purpose. Purina will provide **SHELTER** with the discount list prices for each available product; however, such pricing and product availability is subject to change on an annual basis in Purina's sole discretion. No refunds will be issued for incorrect product ordered. If an item is damaged upon receipt, or an item is shipped incorrectly by Purina, Purina will replace the product at no additional cost to **SHELTER**.

   Purina, or its third party carrier, shall provide shipping guidelines that state product will ship LTL in 7-10 business days from time of order, to **SHELTER** for each order. If shipment is not accepted by **SHELTER** at the time of

delivery by Purina, or if the shipment is redirected to any location other than what is stated on the original order, **SHELTER** shall be responsible for any additional shipping charges.

a. Purchase of Additional Purina Products: SHELTER may purchase Purina® Pro Plan Veterinary Diets products for sale or use at Purina's then current recommended clinic prices applicable to veterinary hospitals and clinics. If the SHELTER has a retail space, the SHELTER will make Purina® products available for sale. SHELTER may purchase Purina® product through a distributor that carries Purina products. Purina will advise on distributor information and coordinate with the SHELTER to develop and implement retail displays for such products.

b. Reporting and Compliance: On or before the yearly anniversary of this Agreement, **SHELTER** shall submit adoption and intake statistics for the prior 12-month period ending December 31st (or the applicable portion thereof if Purina was not the provider of pet food during the entire 12-month period) (the "Adoption Statistics"), and requested pet food quantities under this Agreement will then be compared to the Adoption and intake Statistics. Purina may require **SHELTER** to explain any resulting variances to Purina's reasonable satisfaction. **SHELTER** shall provide to Purina certain information in an electronic format which shall include, but not be limited to, the following: (a) monthly intake of companion animals; (b) monthly adoption numbers

c. Adopter Information: **SHELTER** will send Purina adopter information for persons who have agreed to receive communications from the Purina, **SHELTER** will (a) use good faith efforts to obtain affirmative consent of such persons to authorize Purina to provide information and promotions to such persons and (b) provide Purina bi-weekly with the name, email and postal address of such persons who have provided such consent. Shelter will be responsible for complying with all privacy and other laws and regulations in maintaining and sharing such database information.

6. **SHELTER**'s Promotion Obligations:

a. **SHELTER** will provide verbal recommendations to adopters to continue to feed Purina products at point of adoption.
b. **SHELTER** agrees to provide each adopter with an adopter kit provided by Purina, which may include Purina product samples and/or other promotional material at no cost to **SHELTER**.
c. **SHELTER** will exclusively display Purina brand dog and cat food and litter signage in prominent locations through the **SHELTER**'s shelter facilities. Purina will from time to time provide **SHELTER** with mutually agreed upon signage for such purposes.
d. **SHELTER** will provide a link from **SHELTER**'s adoption page on its website to the Purina and Petfinder website(s) (at no cost to Purina) and will recognize Purina's sponsorship on **SHELTER**'s website in a mutually agreed upon manner.
e. **SHELTER** will include Purina branding and a positive reference to the Purina brand or its products at the **SHELTER'S** physical location and in **SHELTER**'s newsletters or similar publications, including social media.
f. **SHELTER** will apply to become a member of Petfinder and actively post adoptable pets on the online Pet finder platform.
g. **SHELTER** will make a good faith effort to encourage **SHELTER** employees to apply for enrollment in the Purina for Professionals program, which provides Purina brand products at discount prices to its Professional Members, and Purina shall provide **SHELTER** will all necessary enrollment materials and application information.

TERMS AND CONDITIONS OF
PURINA SHELTER FEED PROGRAM AGREEMENT

1. Purina Promotion or Other Use of SHELTER Logo and Marks: Purina may promote itself as a sponsor and provider of Purina brand pet food to SHELTER utilizing the SHELTER Marks as defined in Section 02.2 below, subject to review and written approval by SHELTER, which such approval shall not be unreasonably withheld.

2. Use of Trademarks; Intellectual Property:

2.1 Purina hereby grants to SHELTER, during the Term, the right to use and/or display Purina's logo(s), brand name(s), trademark(s), logotype(s) and/or design(s) as provided by Purina (hereinafter "Purina Marks") to SHELTER during the Term solely for the purpose of fulfilling its obligations as outlined in this Agreement. SHELTER acknowledges that such Purina Marks are and shall remain the sole and exclusive property of Purina and that this Agreement in no way confers upon SHELTER any rights or interest whatsoever in such Purina Marks or the use/display thereof. All uses of the Purina Marks shall be subject to Purina's prior written approval. All use of Purina Marks by SHELTER shall inure to the benefit of Purina.

2.2 SHELTER hereby grants to Purina, during the Term, a non-exclusive right to use and/or display the SHELTER's logo, name, trademarks, logotypes and/or designs (hereinafter "SHELTER Marks") for the purpose of fulfilling its obligations as outlined in this Agreement including, advertising and promoting the relationship to the trade and the general consuming public. Purina acknowledges that use and/or display of any SHELTER Marks in no way confers upon Purina any right or interest in or to such SHELTER Marks or the use of them. Such SHELTER Marks are and shall remain the sole and exclusive property of SHELTER.

3. Confidentiality:

3.1 Each party acknowledges that as a result of entering into this Agreement and performing its obligations hereunder, it may obtain or gain access to the other party's Confidential Information. For purposes of this Agreement, the term "Confidential Information" shall be defined as all information provided by one party to the other orally or in writing and which relate to new or existing products and/or business operations, including, without limitation, distribution data, accounting and financial information, new product concepts and capabilities, and the existence and provisions of this Agreement. To the extent practical, Confidential Information shall be disclosed in documentary or tangible form marked "Confidential" or "Proprietary." In the case of disclosures in non-documentary form or made orally, the disclosing party shall have the right, or, if requested by the recipient, the obligation to confirm in writing the fact and general nature of each such disclosure within thirty (30) days after it is made. Purina will abide by any privacy restrictions as set forth by SHELTER. Purina will abide by any reasonable privacy restrictions required by SHELTER with respect to the identity of any SHELTER contributor or person who adopts an animal from SHELTER.

3.2 Each party hereby agrees to keep the Confidential Information of the other in confidence and will not publish or directly or indirectly disclose or otherwise make available to any third party without the prior written consent of the disclosing party. The recipient of Confidential Information will limit access of such information to only those of its employees and/or subcontractors who need to know the same in order to perform their duties under this Agreement and who have been apprised of its confidential nature and have agreed (in the case of subcontractors, such agreement must be in writing) to be bound by the terms set forth in this Section 8. Each party further agrees not to use the Confidential Information of the other except in connection with performance of its obligations and duties under this Agreement.

3.3 This Section 3 shall survive the termination of this Agreement and shall continue for each item of Confidential Information until such time as the receiving party can show that such item of Confidential Information:

(a) is or has become publicly available other than as a result of any act or failure to act by the receiving party;

(b) was demonstrably known to the receiving party, without an obligation to keep it confidential, prior to receipt of such item of Confidential Information from the disclosing party; or

(c) has legally and properly been received by the receiving party from a person other than the disclosing party, through no breach of any agreement with disclosing party and without an obligation to keep it confidential.

4. Termination:

4.1 This Agreement may be terminated at any time without cause by either party upon ninety (90) days prior written notice to the other party. In the event of termination, each party shall return to the other any and all materials (excluding pet products) which the parties have provided to each other in fulfillment of its obligations hereunder.

4.2 Should either party breach any term, covenant, representation or warranty herein and fail to remedy such breach within thirty (30) days following written notice by the other party of such breach, the affected party shall have the right and option to terminate this Agreement forthwith. Such termination shall be in addition to any and all other rights and remedies that the terminating party may have under this Agreement, at law, or in equity.

4.3 Should either party or their respective employees, representatives and/or agents (the "offending party") commit any act or be involved in any situation tending to bring the other party (the "offended party") into public disrespect, scandal, or ridicule, tending to derogate from the public image of the offended party, or tending to reflect unfavorably upon the offended party or any of its products or services, then such offended party shall, in addition to its other legal and equitable remedies, have the right to terminate this Agreement immediately without an opportunity to cure and without any further obligation to offending party. Without limiting the generality of the foregoing, Purina reserves the right to from time to time to evaluate SHELTER's (a) sanitation and animal housing conditions, (b) policies and practices relating to the treatment of animals, and (c) other matters concerning the quality and welfare of the shelter facilities and the animals housed therein. In the event that Purina, in its reasonable discretion, determines from its evaluation that any such matters may (i) place the health, safety, or welfare of the animals at risk or (ii) cause the reputation or goodwill of Purina to be adversely affected by its continued association with SHELTER, Purina shall have the right to terminate this Agreement upon providing SHELTER with written notice of the adverse condition and at least ten (10) business days to cure the condition.

5. Indemnification:

5.1 SHELTER hereby agrees to indemnify, defend and hold harmless Purina, its affiliated entities and their respective officers, directors, employees and agents from and against any and all losses, damages, claims, liabilities, injuries, actions, causes of action and costs, including reasonable attorneys' fees and expenses, arising out of the SHELTER's performance or non-performance hereunder, any negligent or willful act or omission by SHELTER or its employees, agents, contractors or representatives or any breach of warranty, commitment, covenant or representation by SHELTER herein. The termination of this Agreement shall not affect the continuing obligation of the SHELTER as indemnitor.

5.2 Purina hereby agrees to indemnify, defend and hold harmless SHELTER, its affiliated entities and their respective officers, directors, employees and agents from and against any and all losses, damages, claims, liabilities, injuries, actions, causes of action and costs, including reasonable attorneys' fees and expenses, arising out of the Purina's performance or non-performance hereunder, any negligent or willful act or omission by Purina or its employees, agents, contractors or representatives or any breach of warranty, commitment, covenant or representation by Purina herein. The termination of this Agreement shall not affect the continuing obligation of Purina as indemnitor.

6. Insurance: SHELTER shall maintain at its own expense with insurance carriers reasonably acceptable to Purina throughout the Term a comprehensive liability insurance policy in force with at least One Million Dollars ($1,000,000) single limit liability for covering all activities directly or indirectly related to this Agreement, automobile liability insurance for owned, non-owned and hired vehicles used by SHELTER with a limit of not less than $100,000 per person/$300,000 per accident/$50,000 property damage Said policies shall name Purina as an additional insured therein. SHELTER shall additionally maintain statutory workers compensation coverage, if required by law for its state of

domicile and any other state in which it does business. SHELTER shall furnish Purina with certificates of insurance evidencing the coverage required above. The certificates of insurance must be endorsed to provide that the above polices shall not be cancelled, materially changed or reduced in coverage until at least thirty (30) days after written notice of such cancellation, change or reduction shall have been mailed to Sponsor as a certificate holder at the address shown above. Further, SHELTER shall furnish Purina with proof that SHELTER's insurer acknowledges and covers the contractual liability assumed by SHELTER in this Agreement.

7. Purina's Participation: It is understood and agreed that Purina's participation in this Agreement is limited to promotional and product support only and that Purina does not assume any responsibility for the selection, screening, and placement of animals or other activities of SHELTER.

8. Representations and Warranties:

8.1 Each party hereby represents and warrants that it is free and has full right to enter into this Agreement, to perform all of the obligations hereunder, and to grant all rights hereunder on the terms and conditions contained herein. Each party further warrants and represents that the execution, delivery and performance of this Agreement will not violate or conflict with any contractual restriction(s) and/or agreement(s) binding upon or affecting such party.

8.2 SHELTER warrants and represents that its performance of this Agreement will comply with all applicable federal, state, local laws, rules, regulations and ordinances in effect including, without limitation federal, state and local laws and guidelines governing charitable organizations. SHELTER shall be solely responsible for adhering to all applicable state registration requirements, filings and record keeping as may be required under charitable solicitation and/or registration or other similar laws by the state(s) in which the SHELTER is located and any other states where services will be performed under this Agreement.

9. Equal Employment: SHELTER is aware that Purina is a federal contractor that prohibits discrimination because of age, race, religion, creed, color, national origin, disability, sexual orientation, gender, or veterans' status in the recruitment, selection, training, utilization, promotion, termination, or other employment-related activities. Further, SHELTER is aware that this Agreement is subject to the provisions of Executive Order 11246, as amended, and any other applicable federal regulations and Orders issued under or pursuant to the Equal Employment Opportunity Act.

10. Notices:

10.1 All notices and other communications regarding this Agreement shall be sent to the following address (or such other address as the Party may specify in writing in accordance with these procedures):

If to Purina:	If to SHELTER
Nestlé Purina PetCare Company Checkerboard Square St. Louis, Missouri, 63164 Attention: Catherine Small, Program Lead	Jacksonville Animal Care and Protective Services 2020 Forest Street Jacksonville, Florida 32204 Attention: Julie Adamson, Operations Director

10.2 All written notices required or permitted to be given under the terms of this Agreement shall be deemed duly delivered upon receipt if (i) delivered in person; (ii) sent by facsimile using a machine that confirms delivery and confirmed by sending the original via certified mail, return receipt requested; or (iii) sent certified mail, return receipt requested to the above address. Notwithstanding the foregoing, payments, reports, and other routine communications may be sent by regular or electronic mail.

11. Miscellaneous:

11.1 Each party to this Agreement shall be deemed an independent contractor. No provision of this Agreement or any act of the parties pursuant to this Agreement shall be construed to express or imply a joint venture, partnership, or relationship other than that specified in this Agreement. No employee, agent or other representative of either party shall at any time be deemed to be under the control or authority of the other party, or under the joint control

of both parties. Each party shall be fully liable for all Workers' Compensation premiums and liability and federal, state and local withholding taxes or charges with respect to its respective employees, and each agrees to save the other harmless from any claims brought against the other in respect thereto.

11.2 Neither party may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

11.3 The failure of either party to insist on the strict performance of any terms, covenants and conditions of this Agreement at any time, or in any one or more instances, or its failure to take advantage of any of its rights hereunder, or any course of conduct or dealing, shall not be construed as a waiver or relinquishment of any such rights or conditions at any future time and shall in no way effect the continuance in full force and effect of all provisions of this Agreement.

11.4 Headings of the sections hereof are inserted for convenience only and shall not constitute a part of this Agreement.

11.5 This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri, notwithstanding conflict of laws principles.

11.6 Should any provision of this Agreement be invalid, ineffective, or unenforceable, under present or future laws, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

11.7 This Agreement constitutes the entire agreement between parties hereto and supersedes all prior and contemporaneous agreements and undertakings of the parties pertaining to the subject matter hereof. This Agreement may not be modified except by written instrument duly executed by authorized representatives of Purina and SHELTER.

NESTLÉ PURINA PETCARE COMPANY	JACKSONVILLE ANIMAL CARE & PROTECTIVE SERVICES
By: Cat Powell	By:
Title: Program Lead	Title:
Date: 1/22/2018	Date:

SINGLE SOURCE AWARD **BID # SS-0309-18**

Subject: Purchase of Animal Food and Litter with Purina Shelter Champions Program

Department: Animal Care and Protective Services

Description of Purchase:
Recommend approval of Single Source award to Purina, for the purchase of cat food, dog food and cat litter under the Purina Shelter Champions Program. The program provides high quality pet food at a lower price point for animal shelters. Period of service is one year from date of award, with an estimated expenditure and maximum indebtedness not to exceed $100,000.00.

Funding for this award will be encumbered by account: ERAC011-05205.

Single Source Award To: Purina

Price Justification: See Attached

Total Award: $100,000.00 **Requisition #** N/A

Attachments: Single Source Form; Agency Memo; Price List

Certification as to Single Source: Stephanie Burch, Director of Neighborhoods Department

THE ABOVE PURCHASE IS RECOMMENDED FOR AWARD IN ACCORDANCE WITH CHAPTER 126.206.

ANALYST: Chelsey Fleming

for - **Gregory Pease, Chief**
Procurement Division

APPROVAL OF GENERAL GOVERNMENT AWARDS COMMITTEE

"ALL AWARD ACTIONS SUBJECT TO LAWFULLY APPROPRIATED FUNDS"

CHAIRMAN ***DATE*** 10/26/17

ACTION OF AWARDING AUTHORITY

DATE: 10/26/17

MR **APPROVED** **DISAPPROVED**

OTHER

SIGNATURE OF AUTHENTICATION

FORM GB-114, Revised 12/2007

Sam E. Mousa
Chief Administrative Officer
For: Mayor Lenny Curry
Under Authority of:
Executive Order No. 2015-05

City of Jacksonville, Florida

Lenny Curry, Mayor

Neighborhoods Department
Animal Care and Protective Services
2020 Forest Street
Jacksonville, FL 32204
(904) 255-7200

ONE CITY. ONE JACKSONVILLE.

MEMORANDUM

October 16, 2017

TO: Gregory Pease, Chief, Procurement Division
Finance Department

THROUGH: Stephanie Burch, Director
Neighborhoods Department S. Burch

FROM: Julie Adamson, Operations Director
Neighborhoods Department

SUBJECT: **Single Source Request – Purina**

The Animal Care and Protective Services Division (ACPS) respectfully requests approval to use Purina as a single source for dog and cat food through the Purina Shelter Champions Partner Program.

ACPS has had challenges with the previous vendor in being able to provide ample supplies of food as needed. And the food quality was not adequate for the health needs of animals in a shelter environment.

One other manufacturer offers a similar program, but it has additional requirements which ACPS cannot meet.

The Purina program is exclusively for animal shelters, and is offered by invitation only. ACPS has been invited to participate. The food available from Purina is of higher quality, which is important for the health of the animals in ACPS's care. The pricing is exclusive to participating animal shelters and is lower than available elsewhere.

Through use of the Purina program, ACPS estimates a cost savings of $30,000 annually.

If you need assistance or further information, please contact Julie Adamson at 255-7099. Thank you.

Attachments
Copy of Purina Shelter Champions price list