Operational Guide

Recommendations for City/County Animal Control Contracts



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Introduction

Animal control has evolved considerably in the past 20 years. In many parts of the country, it is hard to tell the difference between a humane society shelter and the local governmentally-run animal shelter. Evidence shows, however, that "dog pounds" still remain. As a result, community members push to instill a humane agenda at their city/county shelter. Often this new agenda requires new management to facilitate improvements, so humane organizations are asked to step in. Other times, municipal governments sometimes shut down their old facilities and contract with private shelter organizations for animal control services.

This guide addresses key decisions in making such contractual agreements with local governments to provide these services. It also includes suggestions for contracts between humane organizations and municipalities.

The concept of "animal control services" encompasses a variety of activities. Of course, any animal welfare organization operating a shelter, whether or not it contracts with the city or county, provides animal control services to some extent; but here the term refers specifically to the fulfillment of contractual obligations.

Basically, animal control work involves two primary duties:

- 1. Apprehending, housing, and placing lost and stray animals
- 2. Answering and finding solutions to complaints regarding animals

Contractual agreements sometimes include additional responsibilities that fall under the heading of animal control. The city/county may also ask for:

- Dead-animal pickup and disposal
- Quarantine of biting animals
- Assistance in or total oversight of animal licensing
- Low-cost spay/neuter services
- Humane education programs to the public

Arguments For and Against

Is taking on such contractual responsibilities advisable? The answer is open to debate. On one side, the additional revenue is nice, but it also places your organization under government scrutiny and regulation. Many humane organizations take on this challenge, which can run the gamut from kenneling animals for a city to providing complete animal control services for an entire county.

Most humane organizations really struggle during their formative stages to raise sufficient funds to function effectively. Often, one of the first goals is to own and operate an animal shelter. Such a project is costly to begin and requires a continuous income to offset operational costs. For that reason, some humane organizations turn to municipal contracts as a means of assuring such an income. Several points justify this course of action:

1. Many times, a humane organization could not exist without some contractual income.

2. A humane organization that operates a shelter cannot avoid doing some, often a great deal, of animal control work anyway. So why not contract, do it all, and receive steady payment?

3. Many humane organizations form simply because of intolerable "pound" conditions in their area. These organizations often have no choice but to take over the enforcement of animal ordinances.

In spite of these arguments in favor of contracting, weighty arguments against this practice also exist: 1. The image of the non-profit, donorsupported charitable agency may be seriously injured when the public realizes an agency also receives tax money. While the tax money is likely insufficient to cover operational costs, many tax payers won't believe it. (For this reason, some organizations try to hide the fact that they receive any tax dollars.)

2. Unquestionably, the "pound" image is not a humane agency's goal. Yet, there is no doubt that public prejudice against impound facilities still exists. Therefore, humane organizations must continually stress the humane aspects of their work in order to project a favorable image.

3. Law enforcement officers do not usually enjoy the praise and love of the general public. Operating an impound facility involves enforcing animal ordinances. In many people's minds, that places the organization in a position of being "against" the animal. Humane agencies strive to assume an educational role in the community, prosecuting only in cases of cruelty or flagrant neglect. Enforcing a "leash law," however, may not fall into this category in the public's mind.

4. With tax-limiting initiatives and unfunded state mandates directed toward local government, such as Haden Bill in California and Federal cutbacks in revenue sharing for local government, cities and counties face difficult financial limitations. These revenue losses may cause local governments to cut back on funding to contract humane organizations. Or, the humane organization may face additional mandates that create serious hardships.

5. Too often, humane organizations place too much dependence on their contract funds. Although many humane agencies use contractual funds to grow and prosper, some allow the contractual income to represent the majority of their budget. Some have even cut back on active fundraising programs, thereby becoming almost wholly dependent upon contractual income, a prospect American Humane strongly cautions against.

Ask organizations about such dependency, and they generally give this reply: "We have good relations with the elected officials." No doubt this is true, or the municipality would not have awarded the organization the contract in the first place. But, politics and politicians change. New legislation (such as seizure laws), newly elected officials, or perhaps a change on the board of directors, could seriously alter the situation.

American Humane recommends that any organization engaging in animal control contracts limit the income derived from contracting to no more than 50 percent of the organization's total income, and preferably less than 50 percent.

By following this 50-percent rule, the organization need not be involved in or can better survive changes. Only with a sound financial footing can a humane organization's directors make operational decisions without too much concern over the possible contract loss.

Municipal Relationships

Leash laws differ from community to community, often varying greatly in strictness. Generally speaking, citizens of any given area receive as much enforcement as the majority wishes. Animal restraint ordinances, while usually recognized as necessary, are often unpopular. In many communities, these laws create great controversy ----sometimes prompting active opposition that may include citizen supporters and even members of humane organizations. With these ideas in mind, it is easy to see how an animal control agency must be aware of the type of enforcement suitable for the contracted communities in order to maintain good public relations.

The city/county may ask the humane agency to assume all or only part of the animal control program. There are three common variations:

- 1. The humane organization assumes all of the duties of animal control.
- 2. The humane organization assumes all of the duties, with the exception of the licensing program.
- 3. The humane organization takes responsibility for housing the animals, and the city/count maintains the remainder of the program.

Providing complete animal control enforcement includes many separate duties, such as licensing, picking up strays, quarantine of animals, operation of a humane animal shelter, operation and maintenance of equipment, administration of rabies vaccination programs, inspection of animal facilities (such as veterinary hospitals, pet shops, and kennels), protection of animals against cruelty, humane disposal of unwanted stray animals, and the keeping of accurate records.

For each condition of the contract, the organization must set up a complete and separate procedure so that animal control officers know what they must do when faced with each given circumstance.

Record keeping is also of critical importance; contracts customarily contain a clause requiring the animal control agency to furnish complete records. Since payment for animal control is usually based on figures supplied by the animal control agency, records must be accurate and complete. Failure to keep adequate records has resulted in the loss of contracts to some humane agencies.

When pursuing a government contract, humane organizations should, however, develop a close working relationship with city/county officials. This demonstrates your responsiveness to their needs. Maintain that close relationship after the contract is awarded. You worked hard to earn it, and now you want to keep that contract.

A positive relationship with the city/county also helps when complaints are filed against you. Due to the nature of animal control work, you can expect to hear from your city/county officials and from the public on a regular basis.

Animal Control Authority

Some cities/counties take a relatively new approach to animal control: the establishment of an Animal Control Authority, whose function is similar to that of a park board or zoning authority. Its membership consists of representatives of the community who are concerned with good animal control. Usually the members include the city or county manager or a city or county commissioner, the police chief or representative of the police department, a health officer, members of the humane organization, and members of the veterinary association.

Animal Control Officers

Animal control officers must be thoroughly familiar with all laws and contractual agreements relative to their work. This includes the ordinances of all areas within their jurisdiction (city, county, and state). They must know the laws that limit their powers as well as those that give them enforcement, search, and seizure authority. Take care to avoid "badge-happy" attitudes.

Officers should be familiar with the general policies of the humane organization as well. Public respect for officers increases, if they can answer questions regarding the activities of the organization without referring people elsewhere.

A continuing internal education program is a must, not only for making the officer an expert in his work but also to keep his interest alive. Training should, therefore, include:

- Laws and legal responsibility
- Techniques of investigation and report writing
- Coping with specific situations in the field (This often works best through open discussion of problems arising daily, which may have been handled well or badly, including things like how to catch animals, rescue animals, or deal with hostile people.) Debriefing these situations better prepares officers to handle similar situations in the future.
- Animal facts (breed recognition, disease risks and prevention, rabies facts, animal first-aid)
- Driver training and vehicle maintenance to reduce accidents and repair costs

Importance of Animal Control

Why is animal control important work? One, it protects the public and public property from inconvenience and dangers that come with an excess of unrestrained animals. Two, it protects animals from dangers of injury and transmission of disease. A prominent veterinarian who practiced for many years in what turned into a heavily populated area once made this statement about the enforcement of animal control ordinances: "Before we had strict animal control, every spring and summer was a nightmare of distemper cases. Sometimes we treated the same dog every year, sometimes twice in the same year. There is no question that animals allowed to run loose in a populated area do not live as long as animals that are well cared for and kept confined. Now that we have enforcement of the leash law, the number of distemper cases we treat is far below epidemic proportions."

— Dr. China, San Mateo Animal Clinic, San Mateo, California

Suggested Contract Clauses

Assuming a humane agency chooses to contract for animal control, the first necessity, of course, is for a mutually acceptable contract.

Use the following suggestions as guides in the drafting of a contract between a humane agency and a municipal or county government. Such agreements place responsibility for the operation of animal shelter services and the enforcement of city ordinances on the humane society, in return for a stipulated sum.

These suggested clauses embody particulars that American Humane has found in its nationwide experience to be contract essentials.

We strongly recommend, however, that when such a contract is under negotiation and consideration, the agency have legal counsel to assist in the negotiations and to draft or approve the final contract. Such safeguard should not only assure that the contract conforms to specific laws in your state, but it's also a prudent thing, considering the responsibility a contract imposes on the humane agency.

Parties Involved

The usual form for such a contract begins with an identification of the parties and may or may not include the date of the contract. The following clause is typical:

This agreement, made and entered into this _____ day of in the year

Two Thousand and

by and between the city of ______ a municipal corporation hereinafter referred to as the City, and the Humane Society, a non-profit corporation hereinafter referred to as the Society.

Society's Authority

What follows next is a recitation of the authority which the city delegates to the humane agency under the contract and a recital of the duties, responsibilities, and obligations which are assumed by the agency under the terms of the contract. Such sections often read as follows:

I.

The Society is hereby assigned, authorized, delegated, and empowered (to take over the management and control of the City Animal Shelter); to issue dog licenses; to impound all animals coming into its control and custody as a result of violations of the animal regulations; to place or humanely dispose of such animals as come into its control; and to manage and enforce the animal regulations and rabies control programs pursuant to all ordinances now in effect or which may hereinafter be adopted. In the furtherance of these obligations, the Society shall:

FIRST, Manage and Operate Animal Shelter

1. Within thirty (30) days from the date of this agreement, the Society shall take physical possession and control of the City Animal Shelter located at ______, together with all equipment, appliances, furniture, and machinery appurtenant thereto. The Society agrees to maintain the building and equipment in a reasonable state of repair during its period of possession under the terms of this agreement.

OR

1. The Society will furnish animal shelter facilities located at ______.

Resolution

What usually follows is the council resolution which authorizes the city or county to enter into the contract. This is important because the legality of the contract will depend upon the authority for executing it. Such a resolution may read as follows:

WHEREAS, the City of _____

WITNESSETH pursuant to (Section) of its (Code of Ordinances, etc.) has established an animal shelter and has passed ordinances which prohibit the running at large within the City of livestock, dogs, and other animals; provide for the licensing of dogs; provide for the inoculation of dogs against rabies; and make other provisions to promote the health, welfare, and safety of humans and animals, and

WHEREAS, the City of____

and the council deem it advisable and for the best interest of the City to turn over and delegate to the Society the management and control of the City Animal Shelter and the enforcement of the above mentioned ordinances.

Duties

The next section usually outlines animal control duties, such as:

NOW, THEREFORE, in consideration of these premises it is mutually agreed between the parties hereto as follows:

1. The Society will maintain proper shelter and care for all domestic and wild animals and fowl which come into its custody.

2. The Society will maintain suitable office hours at the animal shelter for the convenience of the public and for the purpose of transacting business in connection with the duties under this contract and for the purpose of receiving animals or for accepting applications for the redemption of impounded animals.

3. The Society will appoint competent and qualified agents for the carrying out of the responsibilities under this contract, who shall be responsible to the elected officers of this Society.

SECOND, Enforce Animal Regulation Laws

1. The Society will, through duly appointed and legally qualified agents and officers, diligently enforce all animal regulation laws and ordinances and will capture and impound animals found running at large in the City of

in

violation of those certain ordinances relating to stray animals, to the licensing of dogs, and to the restraint of dogs running at large.

2. The Society will provide proper food, water, shelter, and other humane treatment for such animals and fowl while they are in the Society's possession and until placed or otherwise humanely disposed of by the Society.

3. The Society will cooperate with the Health Department by following procedures required by the ordinance concerning persons or animals bitten by an animal in the City of _____.

4. The Society will investigate all reports of violations of city ordinances relating to animal control and regulation and, when warranted by the facts, shall cause to be prosecuted all persons charged with violation of said ordinances.

THIRD, Issue Licenses, Collect Fees, and Keep Records

1. The Society will diligently issue and process applications for dog licenses for all dogs owned or harbored by residents of the City of _____.

2. The Society will collect all dog license, board, adoption, and impoundment fees and shall keep proper financial records to account for same. The Society will permit the City, at all reasonable times, to inspect and audit such records and shall make such reports of monies received as shall be required.

3. The Society shall keep full and accurate records of all persons to whom dog licenses have been issued. It shall maintain a record of all animals taken into custody and impounded, showing the date, place, reason, and manner whereby animals were brought into custody with a description of the animal and a record of its final disposition.

FOURTH, Rescue of Animals

The Society shall, in addition to the other duties outlined herein, be subject to call at any time of the day or night to rescue any injured animal or any animal or creature which is trapped, or is otherwise unnaturally restrained and shall be responsible for providing humane treatment for same.

FIFTH, Humane Education

The Society will initiate and maintain a program of education designed to promote the proper care and treatment of animals and to stimulate public support for such treatment and for the enforcement of city ordinances relating to animal control.

SIXTH, Assume Responsibility for Own and Agent's Acts

The Society will indemnify and save harmless the City from all demands, claims, causes of action or judgments, and from all expenses that may be incurred in investigating or resisting the same, arising from, or growing out of, any act or neglect of the Society, its contractors, agents, or servants in connection with the operation of the City Animal Shelter, or its own shelter, or in the performance of related duties. The Society shall fully inform all persons using or being upon the said premises, or dealing thereat, of the nonliability of the City for any act or neglect of the Society, by posting an adequate number of notices to that effect in, about, or on said premises.

SEVENTH, Insurance

Society shall procure and maintain during the term of this agreement Workers' Compensation Insurance as prescribed by the laws of the State of ______.

Society shall procure and maintain during the term of this agreement comprehensive general liability coverage that shall protect Society from claims for damages for personal injury, including accidental and wrongful death, as well as from services rendered under this agreement, whether such services be by Society, by any subcontractor, or by anyone employed directly or indirectly by either of them. Such insurance shall provide for limits of not less than \$_____ per occurrence.

The amounts of such insurance shall not be deemed as a limitation of the indemnity and hold free and harmless covenant contained in Paragraph herein, and in the event the City becomes liable for an amount in excess of such insurance coverage, Society shall indemnify and hold the City free and harmless for the whole thereof.

The Society shall furnish the City with policies or certificates of insurance to demonstrate that the Society has procured such insurance and that the City has been named as an additional insured therein. Such policies or certificates shall contain the following provision:

"It is agreed that the City of ______, State of ______, is added as an additional insured under this Policy and the coverage provided hereunder shall be primary insurance and not contributing with any other insurance available to the City under any other third-party liability policy. It is further agreed that the 'other insurance' condition of this policy is amended to conform therewith."

Such policies or certificates of insurance shall contain the covenant of the insurance carrier that thirty (30) days written notice shall be given to the City prior to modifications, cancellation, or reduction in coverage of such insurance.

EIGHTH, Contract Not Assignable

The Society shall not have the right, authority, or power to sell, mortgage, or assign this contract or the powers granted to it, or any interest therein, nor any right, power, or authority to allow or permit any other person or party to have any interest in or use any part of the premises owned by the City and now designated as the City Animal Shelter for any purpose whatsoever without the written consent of the City.

NINTH, Society's Independent Capacity

The Society, its officers, employees, agents, and volunteers, shall act in an

independent capacity during the term of this agreement and not as officers, employees, agents, or volunteers of the City.

City/County Obligations

The obligations of the City which arise under this contract are contained and outlined in the succeeding passages. Basically, they are concerned with the city's continuing responsibilities, such as supplying licenses, certificates, and receipts; legally deputizing the society's agents; and paying the society for services rendered.

On the latter point, alternative plans for payment are suggested. One calls for a computation to be based upon a per capita charge of either the human population or the animal population in the area to be served. The other uses the licensing and impoundment fees collected. An initial short-term contract is recommended until it can be determined whether or not any of these rules cover the agency's actual cost of handling animal control satisfactorily. The suggested language for these clauses follows:

II.

In compliance with the terms and conditions of this contract, the City shall:

FIRST, Supply All Certificates and Licenses

The City shall purchase and supply to the Society all such dog license certificates, numbered (metallic) tags, and receipt forms as shall be required by the Society in the carrying out of its responsibility under this contract.

OR

The City shall provide advance funds in the amount of \$______ to

purchase all such dog license certificates, numbered (metallic) tags, and receipt forms as shall be required by the Society in the carrying out of its responsibility under this contract.

SECOND, Deputize Society Agents

The City or its properly authorized representative shall issue special commissions and other legal authority to properly deputize and invest with authority the qualified agents of the Society. Such authority shall be limited to the enforcement of the ordinances, rules, and regulations pertaining to the animal regulation (and rabies control) program.

THIRD, Method of Payment, How Computed

The agreed contract price to be paid by the City to the Society for the carrying out of its obligations and responsibilities herein shall be arrived at as follows:

1. The annual contract payment shall be computed on the basis of ______ cents per capita of the human population in the area to be served. For purposes of this computation, the population count as reported in the last official census shall be used with adjustments to take into account population changes since the date of the census.

OR

1. The annual contract payment shall be computed on the basis of dollars per capita of the animal population in the area to be served.

2. The agreed contract price shall be an amount equal to the revenue produced by the sale of dog licenses and impoundment fees. 3. It is understood and agreed that the contract sum shall be paid in _____ installments, in advance, with the first installment due upon the signing of this agreement.

FOURTH, Applicability of New or Revised Animal Control Ordinances

It is understood and agreed by the City and the Society that in the event the animal control ordinances are superseded or revised to cause the level of services to be performed by the Society under this agreement to be increased, then such provisions shall not be applicable with respect to this agreement.

Concluding Clauses

The concluding clauses in the contract will outline the terms with respect to the life of the agreement and the manner in which it may be terminated:

III.

It is mutually understood and agreed by the parties hereto that this agreement shall continue in effect for

years from date hereof. However, it is fully agreed that, after the initial contract period, this contract may be terminated by either party upon ninety (90) days written notice to the other of an intention to terminate this agreement or enter into a new agreement.

It is mutually understood and agreed to by the parties hereto that the City will defend this contract with all due and proper diligence should it be challenged by any action in law.

This agreement is intended by the parties hereto as the final and exclusive expression of the provisions contained in this agreement, and it supersedes and replaces any and all prior contemporaneous agreements and understandings, oral or written, in connection therewith, between the parties hereto. This agreement may be modified or changed only upon the written consent of the parties hereto.

Example Contract

Contract for Animal Shelter Management and Animal Control Services

This contract, made this 1st day of July, 1998, by and between the City of Alexandria, a Municipal Corporation of Virginia, hereinafter called the "City" and Animal Welfare League of Alexandria, 910 South Payne Street, Alexandria, Virginia 22314; (703) 838-4775; or its successors, executors, administrators, and assignees, hereinafter called the "Contractor":

WITNESSETH: That for and in consideration of the payments set forth in Section IV below, and the mutual promises contained herein, the parties agree as follows:

I. CONTRACT DOCUMENTS

The following contract requirements are hereby agreed to by the parties. Where there is a conflict between the requirements of State and City law and the requirements set forth below, the requirements of State and City law shall take precedence and govern.

II.CONTRACTOR WORK REQUIREMENTS

It is agreed that the service to be performed under this contract is to provide Animal Shelter Management Services and Animal Control Services (as such terms are hereinafter defined) under the general supervision of the Parking/Animal Control Unit, Alexandria Police Department, in accordance with the terms, conditions, and specifications contained or referenced herein.

The Contractor agrees that all Animal Shelter Management Services and Animal Control Services performed for the City of Alexandria shall be performed in full compliance with the applicable Federal, State, and City laws, regulations, and guidelines for such services.

All records, reports and documents relating to this contract shall be maintained by the Contractor for a period of five (5) years following termination of the contract. Such records, reports, and documents shall be subject to review and audit by the City and the City's consultants or auditors at mutually convenient times.

The City and the Contractor agree that the City intends to construct a new animal shelter. In the event of any increase or decrease in space, location, or volume of service resulting from this new construction, the parties agree to conduct good faith negotiations to address these issues.

The Contractor agrees that it shall provide the following animal shelter management services and animal control services (hereinafter respectively referred to as "Animal Shelter Management Services" and "Animal Control Services"):

A. OPERATION OF THE ANIMAL SHELTER

1. The Contractor shall operate and maintain the City's Animal Shelter located at 910 South Payne Street, Alexandria, Virginia, (the "Shelter") (or at any other location where the City constructs or maintains an animal shelter) in accordance with the guidelines established by the Virginia Department of Agriculture and Consumer Services for maintaining a city shelter pursuant to Section 3.1-796.96, Code of Virginia, 1950, as amended, the Code of the City of Alexandria and other applicable laws and regulations. The Contractor shall be responsible for day-to-day custodial care of the Shelter facility and grounds, including the removal of litter and debris from outdoor areas and the provision of adequate watering of plantings during dry periods, and for use of all utilities (including, without limitation, electric, gas, water, oil, sewage, and telephone). The Contractor shall be responsible for payment for services exceeding the utilities allowance pursuant to the terms contained in Section IV herein.

2. The Contractor shall impound animals apprehended in the City by Animal Control Officers (as hereinafter defined) or other authorized employees of the Contractor or the City in accordance with the applicable laws and regulations of the Commonwealth of Virginia and the City.

3. At a minimum, the Contractor shall operate the Shelter and keep the Shelter open to the public from 8 a.m. to 5 p.m., four days a week, and from 8 a.m. to 8 p.m., two days a week, except for Federal, State, and City holidays when the Shelter may be closed to the public. The Contractor shall provide thirty (30) days written notice to the City of any change in hours of operation from those currently available to the public.

4. The Contractor shall provide an adequately trained animal technician staff of sufficient size to provide all the services required under this contract.

5. All Shelter employees, if full time, shall work at least forty (40) hours per week, unless the hours are reduced by authorized leave or holidays. At least one Animal Control Officer shall be on duty during the Shelter's hours of operation. At least one Animal Control Officer, or one animal care technician employed by the Contractor, shall be either on duty or on call during all other hours; provided, however, in no event shall animal care technicians undertake any law enforcement activities, including without limitation, the investigation of possible violations of law or the seizure of animals in the possession of, or under the control of, any person.

6. The Contractor shall provide adequate feed, water, shelter, space, care, treatment, and transportation to all animals housed at the Shelter as required by Virginia Code, Section 3.1-796.68. Animal quarters shall be sanitized and cleaned daily.

7. The Contractor shall provide a system to monitor medical and other information on each sheltered animal.

B. IMPOUNDMENT OF ANIMALS 1. The Contractor shall be responsible for enforcement of the quarantine for a tenday (10-day) period of any animal which has bitten or is suspected of biting a person or as directed by the Alexandria Health Department.

2. The Contractor shall be responsible for the humane euthanasia of any animal using methods approved by the State Veterinarian, if euthanasia is required for reasons of public safety or welfare. The City acknowledges that nothing in this contract shall be deemed to preclude the euthanasia of any animal by the Animal Welfare League of Alexandria, in a capacity other than Contractor under this contract, for reasons other than public safety or welfare, or other than in satisfaction of the City's legal obligations. In the event the Animal Welfare League of Alexandria performs euthanasia of any animal for reasons other than public safety

or welfare, or other than in satisfaction of the City's legal obligations, the Animal Welfare League of Alexandria shall be responsible for, shall defend against, and shall indemnify and hold the City harmless against any and all suits, claims, demands, losses, or actions made against the City based upon, arising from or incident to the performance of such euthanasia.

3. The Contractor shall be responsible for the collection and disposal of the carcasses of dead animals found on public property within the City. The Contractor shall not be responsible for the collection and disposal of the carcasses of dead animals found on private property.

4. The Contractor shall maintain all necessary records and reports of animals impounded at the Shelter, as required by Virginia Code, Section 3.1-796.105.

5. The Contractor shall, upon request, furnish the Alexandria Police Department and the Alexandria Health Department all information in its possession about impounded animals and shall cooperate with the Alexandria Police Department in the enforcement of laws prohibiting cruelty to animals.

6. Whenever the ownership of an impounded animal is ascertained, the Contractor shall make a reasonable effort to notify the owner of the animal's impoundment within 24 hours after the animal is initially confined.

7. The Contractor shall collect, secure, and deposit all fees, fines, and costs due, including the cost of providing veterinary care to animals, from owners of impounded animals in accordance with applicable laws and City procedures.

C. ANIMAL CONTROL OFFICERS

1. Subject to a criminal background investigation by the Alexandria Police Department and appointment by the City Manager or City Council (as determined by the City), the Contractor shall employ individuals to enforce the provisions of, and to perform as animal control officers ("Animal Control Officers") under Title 5, Chapter 7, of the Alexandria City Code, and to the extent authorized by state law, Title 3.1 of the Virginia Code. The City reserves the right to request replacement of Animal Control Officers whose performance is not in accordance with the Code or the best interests of the City.

2. The Contractor shall direct Animal Control Officers to patrol City streets and public areas and to enforce the relevant provisions of State and City law.

3. The Contractor shall be responsible for all continuing education training of Animal Control Officers to assure their continued compliance with State and City educational and training requirements.

4. All provisions, relating to dogs, cats and similar companion animals of Title 5, Chapter 7, of the Alexandria City Code shall be enforced by the Contractor, except for Section 5-7-83, which shall be enforced by the Director of Public Health.

5. The Contractor shall at all times provide the Alexandria Police Department with a list of the names and telephone numbers of Animal Control Officers and animal care technicians, who are on-call for emergency after-hours services and shall notify the police department immediately of any changes in the list.

6. The Contractor shall respond to calls regarding problem wildlife in the City, and

shall direct Animal Control Officers, or other individuals employed by the Contractor to the extent such individuals are authorized by State or Federal law, to capture, temporarily hold and possess, transport, release, and when necessary humanely euthanize wildlife, in accordance with applicable regulations set forth in the Virginia Administrative Code, or other applicable state and federal laws.

D. PUBLIC SERVICES PROGRAMS In consideration of the award of this contract to the Contractor, the Contractor shall provide at its sole cost and expense, the following services:

1. A reduced cost spay/neuter program for any animal owned by a resident of the City. The reduced cost spay/neuter program is a cooperative effort of local veterinarians and the Contractor. If the Contractor is unable for any reason beyond the control of the Contractor to maintain the continued cooperation of local veterinarians in this program, the Contractor shall have no obligation to continue the reduced cost spay/neuter program;

2. A volunteer program to encourage support for the Contractor and its operations of the Shelter; provided that all volunteers shall execute, as a condition of their participation, a waiver of City liability, in form and content acceptable to the City;

3. Events designed to promote animal adoptions and to educate the public about animal welfare; and

4. An adoption program similar to that previously provided to the City. The adoption program shall be conducted to ensure humane, permanent homes for animals with pre-adoption visits performed as appropriate. The Contractor must maintain a documented adoption procedure and maintain complete records of all adoption attempts and placements.

E. CITY FURNISHED EQUIPMENT, FACILITIES, AND SERVICES The following City-owned equipment, facilities and services shall be furnished to the Contractor for use in carrying out the purposes of this contract:

1. The City shall provide to the Contractor, solely for its use, two vans used by the Contractor under its prior contract with the City. Title to these vehicles shall remain in the City's name and, so long as the vehicles are so titled, the City shall selfinsure them; provided, however, accident damage, when found to be chargeable to Contractor employees, shall be paid for by the Contractor. The Shelter and all other City property located at the Shelter shall remain in City ownership. The Alexandria Police Department is authorized and funded for two vehicles to be assigned to the Animal Shelter. The Alexandria Police Department recently has assigned a third vehicle through the department's retention program. The City shall make every reasonable effort to provide a third vehicle to the Contractor for the duration of this contract through its retention program. However, the City has no obligation under this contract to procure a third vehicle for the Contractor.

2. The Contractor shall comply with all regulations and procedures with respect to the operation and care of the City owned vehicles, including, but not limited to Administrative Regulation 7-3. The Contractor shall keep the vehicles clean and report any mechanical problems immediately to the Department of General Services.

3. Operators of the City vehicles shall complete a defensive driving course offered by the City within three (3) months of hire, at no cost to the Contractor.

4. The Alexandria Police Department may, from time to time, supplement the services provided by the Contractor when, in the sole discretion of the City, it is determined that supplemental services are required. These services may include, but are not limited to, transporting animals, training contract personnel in rabies containment, investigating dog bite incidents, and providing traffic control services. The Alexandria Police Department will provide assistance to the Animal Control Officers in the conduct of their duties whenever the Animal Control Officers reasonably determine that a situation requires police assistance.

5. The City shall maintain the Shelter parking lot, including the removal of snow and ice from the parking lot, and from all sidewalks immediately adjacent to the Shelter, within a reasonable time of its accumulation. The City also shall maintain the grounds around the Shelter to include planting and cutting grass and mulching, trimming, and maintaining existing trees, shrubs, and other foliage.

6. The City shall maintain and provide three (3) portable police radios for use by the Shelter staff. The radios assigned will be determined by the Alexandria Police Department.

7. The City shall provide maintenance and fuel for all Shelter vans it owns. Fuel shall be obtained from the City's fuel stations.

8. The Shelter building shall be maintained by the City. Maintenance shall include, but not be limited to, assuring the safe, efficient and proper working, to include inspections, adjustments and cleaning, of all utilities, heating and air conditioning systems, drains, filters, circuit breakers, electrical and plumbing systems, telephones, freezer, and water systems. All expenses incurred in inspecting maintaining, repairing, and replacing the above shall be borne by the City, except in the event of gross negligence or willful misconduct of the Contractor, its employees, agents, or volunteers, in which event, the Contractor shall bear all such expenses. The City shall reasonably maintain, or provide for the reasonable maintenance or replacement of, the following City-owned equipment at the Shelter: the refrigerators, washers, dryers, walk-in freezer, animal dryer, pressure sprayer, computers and printers, and typewriters. The Contractor may provide a list of current maintenance needs. If determined by the City to be cost effective, and budgeted funds are available, maintenance, repairs or replacements pursuant to this paragraph, shall be made as promptly as possible.

9. Excluded from the City's maintenance responsibilities shall be all maintenance of cat cages and furnishings owned by the Contractor, and day to day custodial maintenance of the shelter, including washing of all surfaces, such as floors, walls, drains, diffusers, light fixtures, windows, fencing, woodwork, and plumbing fixtures.

10. The City shall provide a dumpster and trash removal services.

11 .The Contractor may use the Shelter for activities of the Animal Welfare League of

Alexandria that serve citizens of the City and further the mission of the Contractor in accordance with the terms of this contract; provided, however, that funds designated for the performance by the Contractor of its responsibilities under this contract shall not be used to support Animal Welfare League programs not approved and included in this contract.

F. COSTS OF OPERATION, EXPENSES OF CONTRACTOR, AND EXPENSES OF THE CITY

1. The Contractor shall contribute, at its sole discretion, not less than \$75,000 per year of goods and services to promote animal welfare and care for animals in Alexandria through humane education, adoptions, outreach programs and other services. The Contractor shall provide a report of such contributions at the end of each fiscal year.

2. The Contractor shall maintain at all times adequate supplies for the performance of its obligations under this contract, including without limitation, the lawful duties of the Animal Control Officers.

3. The Contractor shall provide a general liability and property damage policy of \$1,000,000 per person per occurrence, which names the City as additional insured, as well as any other necessary insurance coverage required for operation and use of City facilities. The Contractor shall abide by any insurance and safety recommendations of the Risk Manager of the City of Alexandria.

4. All donations, of any kind, expressly made to "The Shelter," "The Animal Shelter," or to the "Alexandria Animal Shelter," will be considered the sole property of the Contractor, and if received by the City will be promptly forwarded to the Contractor. Notwithstanding anything to the contrary contained in this contract, the Contractor agrees that donations (a) expressly designated by the donor for the design and construction of a new shelter, as a joint project of the City and the Contractor (the "Project"), or (b) made in response to a solicitation by the Contractor for donations in support of the Project, shall be segregated and held by the Contractor in a separate account and expended by the Contractor solely for the Project.

G. MAINTENANCE SUPPORT 1. The Contractor shall request maintenance support from the City using procedures and forms established by the City Department of General Services.

2. The City's General Services staff and the Contractor jointly shall inspect the Shelter on a quarterly basis. The Contractor shall prepare a checklist following each of these inspection tours and send a copy to the Department of General Services for its review. Any deficiencies noted on the checklist shall be corrected, in a timely fashion, by the party responsible under the terms of this contract, or scheduled for future budgetary action, as appropriate, depending on the responsibility therefore.

H. CAPITAL IMPROVEMENTS

Each year this contract is in effect, the Contractor may submit to the Alexandria Police Department during the regular budget process a request for any needed capital improvements to the Shelter. Any such request shall include a description of the requested improvements and an estimate of their cost. The City shall give good faith consideration to each request; however, it should be understood that capital improvements are subject to overall City budgetary priorities and funds availability, and the City shall in no event be obligated to make any such capital improvements. If an emergency arises relating to Shelter maintenance during the term of this contract, the Contractor shall advise the City within forty-eight (48) hours so that the City may decide whether to take appropriate action. The Contractor shall not make any capital improvements or physical changes to the Shelter, even at its own cost, without the prior concurrence of the City in writing from the Purchasing Agent.

I. RECEIPTS, CASH DEPOSITS, AND DISBURSEMENTS AND CONTROLS The Contractor must install and maintain an adequate system of internal controls covering income and expenses, which meets the City's approval.

The Contractor shall operate the City dog and cat licensing program. An automated system must be used to properly track and account for all licenses issued and payments received. License fees shall be deposited in accordance with the instructions of the Director of Finance.

J. MEETINGS AND OTHER REQUIREMENTS

The City shall appoint an individual to serve as liaison with the Contractor's Shelter director for the purpose of reviewing all matters relative to this contract. This individual shall be the Commander of the Parking/Animal Control Unit, Alexandria Police Department. At least once per quarter, the City's and the Contractor's representatives shall meet to carry out these duties. To ensure adequate communication and coordination among all City agencies, the Contractor shall direct all notices required or permitted under this contract (with the exception of maintenance requests which should be directed to the Department of General Services) through the contract administrator. In the case of an event requiring notification of City agencies other than the Police Department, the Contractor shall inform the contract administrator or designee in a timely manner.

The Contractor shall continue to provide monthly activity reports through the designated Police commander for transmission to the City Manager's office. These reports shall include, but not be limited to, statistics on workload, City income, adoptions, licenses, animal control and special investigations, animals incoming and their dispositions, and other programmatic issues deemed noteworthy by the City or the Contractor.

III. PERIOD FOR CONTRACT

The initial term of this contract is from July 1, 1998, to June 30, 2003. The City reserves the right to renew this contract at the sole option and discretion of the City, for five renewal terms of one year each.

The fixed price shall be firm for the first year of the contract. Subsequent years' prices shall be contingent upon annual appropriations by the City Council of the City of Alexandria. Costs in subsequent contract years shall be adjusted to reflect any increase in the CPI-U for the Metropolitan Washington-Baltimore region as published by the United States Bureau of Labor Statistics; provided, however, in no event shall costs be increased in excess of 3.5% per year. In the event the index increases more than 3.5% in a year, the parties agree to negotiate an increase in contract costs, reduction or elimination of services, or

combination thereof for the subsequent contract year. If the parties are unable to reach an agreement, the City shall have no obligation to increase costs for the subsequent contract year, but the Contractor may reduce or eliminate services under this contact (other than those which the City is required to provide by law) to the extent necessary to account for the increase in the index.

IV. CONTRACT COSTS

A. The Contractor at its own proper cost and expense shall do all the work necessary to carry out its obligations set forth in this contract to the full extent as set forth herein and to the satisfaction of the City.

B. The contract shall be a firm fixed price contract in the amount of \$623,090.

C. In addition to the Fixed Price, the City shall provide to the Contractor an allowance of \$23,040 for utilities (telephone, electricity, water, gas) for the first year of the contract. Actual and necessary costs as billed to the City by the City's utility service providers, and allocable to the Shelter, shall be deducted from this allowance on a monthly basis. The Contractor shall be provided monthly reports of usage and charges. At the end of the contract year, if the utility costs for the Shelter exceed \$23,040 and measures reasonably could have been taken by the Contractor to reduce these utility costs, but such measures were not implemented by the Contractor, the Contractor shall pay to the City upon demand the amount of the costs exceeding \$23,040.

Notwithstanding the foregoing, if such excess costs are due to (i) the failure of the City to perform its maintenance obligations under this contract, or (ii) the City's refusal to make reasonably necessary capital improvements to the Shelter, the Contractor shall not be responsible for such additional costs.

D. The parties reserve the right to negotiate mutually agreed rates for other future specified serves. If the Contractor responsibly believes that any work it is requested to perform under this contract is not, or may not be, within the scope of the contract, or represents, or may represent a material change in the contract, the Contractor shall immediately notify the Contract Administrator that the work is beyond the scope of the contract or represents a material change in the contract, and if the City desires the work to be undertaken, then the Contractor shall be fully compensated for performing the work; provided that a written change order to this contract must have been made pursuant to Section VB prior to the work being performed in order for such additional compensation to be paid to the Contractor.

V. PERSONNEL AUTHORIZED TO REPRESENT THE PARTIES A. Authorized Contract Administrators Contract Administrator for the City: Commander, Parking/Animal Control Section, Alexandria Police Department, (703) 838-3868, FAX: (703) 838-6345

Contract Administrator for Contractor: Director, Animal Shelter, (703) 838-4775, FAX (703) 838-5042.

B. Contracting Officer

Changes made to this contract throughout the contract period must be authorized in writing by the City's Purchasing Agent or his designee and the Contractor's Director.

VI. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

The Equal Employment Opportunity provisions of Title 12 of the City Code, including without limitation, Section 12-4-6-b, are hereby incorporated by reference and made a part of this contract.

VII. TAX REQUIREMENTS

By executing this contract, the Contractor agrees to comply with the laws, regulations and rulings of the United States Internal Revenue Service related to the requirements for filing information statements, including IRS Form 1099.

VIII. PAYMENT TERMS

The City shall pay the Contractor in equal quarterly installments.

IX. TERMINATION AND DEFAULT

A. Upon mutual agreement, the City or the Contractor may terminate this contract, in whole or in part, at any time by providing sixty (60) calendar days written notice to the other party. The Contractor shall be paid for its work performed up to the date of termination in accordance with the contract.

B. Upon Contractor's failure to cure a default (i.e., non-performance or violation of contract terms) within fifteen (15) days of written notice of such default from the City to the Contractor (provided, if such default cannot be cured within such 15day period, and the Contractor commences the cure within such 15-day period, the cure period shall be extended to thirty (30) days after the initial written notice of such default), this contract may be canceled or annulled by the Purchasing Agent or his designee in whole or in part by written notice of default to the Contractor. Upon default, an award may be made to another Contractor, and the Contractor shall be

liable to the City for costs incurred in excess of the costs provided for in this contract.

C. Rights, obligations, or liabilities of both parties which arise prior to the suspension or termination of this contract shall survive the suspension or termination of this contract.

X. ASSIGNMENT

The Contractor shall not assign, transfer, convey, or otherwise dispose of any or all of its right, title, or interest in this contract, without the prior written consent of the Purchasing Agent or his authorized designee.

XI. GOVERNING LAW

This contract shall be governed in all respects by the laws of the Commonwealth of Virginia and the City of Alexandria.

XII. INDEMNIFICATION, LIMITATION OF LIABILITY AND NOTICE

A. Contractor shall be responsible for, shall defend against and shall indemnify and hold the City harmless against any and all suits, claims, demands, losses or actions made against the City based upon, arising from or incident to the provisions of services by the Contractor under this Agreement. This indemnification does not include indemnification for claims based upon the alleged unconstitutionality or invalidity of any provision of the State or City codes pursuant to which the Contractor acts or an alleged invalidity of the delegation, if any to the Contractor under this Agreement of the authority to enforce the State and City animal control laws and animal cruelty laws.

B. The Contractor shall notify the City of any suit, claim, demand, loss or action

made or filed against the Contractor immediately upon the Contractor's receipt or learning of it.

XIII. WARRANTIES Each party to this contract warrants the following:

A. This contract constitutes a valid, binding, and enforceable agreement of the party;

B. The execution of this contract and the performance of its obligations are within the party's powers; have been authorized by all necessary action on behalf of the party; do not constitute a breach by the party of any agreement with another party; and will not cause a breach by the party of any duty arising at law or in equity; and

C. The party possesses the financial capacity to perform all of its obligations under this contract.

The parties agree that the failure of any of the above representations and warranties to be true during the term of this contract shall constitute a material breach of this contract, and the non-breaching party shall have the right, upon notice to the reaching party, to immediately terminate this contract. All amounts outstanding hereunder shall be immediately due and payable. Court costs and other costs and expenses, including reasonable attorney's fees incurred in the collection of any amounts due hereunder, may also be recovered by the non- breaching party.

XIV. SEVERABILITY

Should any provision of this contract be declared invalid for any reason, such decision shall not affect the validity of any other provisions, which other provisions shall remain in force and effect as if this contract had been executed with the invalid provision(s) eliminated, and it is hereby declared the intention of the parties that they would have executed the other provisions of this contract without including therein such provision(s) which may for any reason be hereafter declared invalid.

XV. NON-WAIVER

The failure of Contractor or the City to exercise any right, power or option arising under this contract, or to insist upon strict compliance with the terms of this contract, shall not constitute a waiver of the terms and conditions of this contract with respect to any other or subsequent breach thereof, nor a waiver by Contractor or the City of their rights at any time thereafter to require exact and strict compliance with all the terms hereof.

XVI. SURVIVABILITY OF PAYMENT OBLIGATIONS, RIGHTS, AND REMEDIES

Provided the Contractor has not defaulted in the performance of its obligations under this contract, the obligation of the City or its participating departments to make payments as herein set forth shall continue until fully performed. Any rights and remedies the City or Contractor may have with respect to each other arising out of either party's performance of services or obligations hereunder shall survive the expiration or termination of this contract.

XVII. RELATION TO CITY

In performing services under this Agreement, the Contractor shall be an independent contractor for the City, and neither the Contractor nor its employees, shall under any circumstances, be considered employees, servants, or agents of the City. The City shall not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants, or agents while performing under this Agreement.

XVII. SIGNATORIES Please type or print the following information, with the exception of the signature.

CITY OF ALEXANDRIA, A MUNICIPAL CORPORATION OF VIRGINIA ADDRESS______ BY _____ Purchasing Agent

Animal Welfare League of Alexandria ADDRESS______ BY _____ Director