

**CITY OF PALMER ACTION MEMORANDUM NO. 09-021**

**SUBJECT:** Authorize the City Manager to Negotiate and Execute a Contract with the Matanuska-Susitna Borough for Animal Control services

**AGENDA OF: March 10, 2009**

<b>Council action:</b>	<b>Authorized</b>
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**Approved for presentation by B. B. Allen, City Manager** *B. B. Allen*

Route To:	Department/Individual:	Initials:	Remarks:
X	Originator (Public Safety Director)	<i>JO</i>	
X	City Clerk	<i>BY</i>	
X	City Attorney	<i>↔</i>	
X	Director of Administration		
	Director of Community Development		
	Director of Community Services		
	Director of Public Safety		
	Director of Public Works		

**Attachment(s):** Proposed 2009 Animal Control Services Contract between the City of Palmer and the Matanuska-Susitna Borough

**Finance Director's Certification of Funds:**

X	No fiscal impact.	
	Funds are budgeted from this account number:	
	Funds are not budgeted. Budget modification is required. Affected account number:	

Finance Director Signature: *[Signature]*

**Summary statement:**

The City of Palmer Police handles animal control violations under Palmer Municipal Code Title 6. Officers respond to calls involving loose or dangerous animals and, in most cases, capture the animal and transport it to Borough Animal Control for care or disposition according to Borough Ordinance. In the case of large animals, Borough officials are summoned to pick up livestock using Animal Control's truck and trailer. The Borough provides no patrol services by an Animal Control officer.

The City and Borough had a contract in years past for this service, but the contract had expired.

The City had continued to remit payment to the Borough for these services. Borough and City officials re-drafted a contract to formalize this agreement and to establish newly-negotiated prices.

**Administration recommendation:** Approve action memorandum 09-021.

ANIMAL CARE AND REGULATION SERVICES AGREEMENT  
BETWEEN  
MATANUSKA-SUSITNA BOROUGH  
AND  
CITY OF PALMER

This agreement is made and entered into this XXXXX day of XXXXXXXX, 2009, by and between the Matanuska-Susitna Borough (MSB), hereafter referred to as the “Borough”, and the City of Palmer, hereafter referred to as the “City”, for animal care and regulation services to be provided by the Borough and paid for by the City.

SECTION 1. Term. This agreement shall be for the period April 1, 2009 through and including March 31, 2009. The period of this agreement may be extended by mutual written agreement of both parties.

SECTION 2. Definitions.

**Impoundment:** The taking of an animal by the Borough or the City for safekeeping for the protection of the animal, other animals, or persons, until the owner of the animal takes proper custody of the impounded animal.

**Reasonable Attempts:** Attempts made that an ordinarily prudent and rational person would use in the circumstances.

**Quarantine:** Strict isolation to prevent the spread of disease or to monitor an animal for contagious diseases or illnesses.

**Large Animal:** For purposes of this contract a large animal is defined as any animal over 200 pounds in weight. This may include but is not limited to livestock such as cows or horses.

**Small Animal:** For purposes of this contract a small animal is defined as any animal, other than a cat or dog, weighing less than 200 pounds. This includes but is not limited to chickens, ducks, geese, ferrets, rabbits, or reptiles.

SECTION 3. Scope of Work.

- A. The Borough shall provide, on behalf of the City, the following services:
1. Confine, care, and feed animals in a humane manner for animals brought to the Borough shelter at the direction of the City, by a resident of Palmer, or that has been found in the city limits of Palmer.
  2. Provide for the 24 hour, 7 day per week access of the shelter for drop off of animals by a City Police Officer.
  3. Release animals to their owners upon the owner’s compliance with all applicable City regulations, rules, ordinances or directives. The City shall

provide proof of compliance to the owner which the owner shall provide to the Borough prior to the Borough releasing the animal.

4. Provide humane euthanasia for animals not redeemed, adopted or that are deemed not adoptable.
  5. The Borough shall hold animals brought to the shelter for 72 hours if not licensed and 120 hours if properly licensed and the City advises the Borough of the name and phone number of the owner. The City and Borough will make reasonable attempts to locate or contact the owner of any animal brought in by the City prior to disposal by euthanasia or adoption as set in MSB Title 24.
  6. Provide animal adoption services.
  7. Provide for rabies quarantine of animals impounded by the City for a period of not more than 10 days, as required by Alaska Administrative Code 7AAC 27.020 (c)(1), unless directed in writing by the City to extend the quarantine period.
- B. The City shall provide the following to the Borough:
1. A list of people authorized to release animals from impoundment or quarantine.
  2. A current list of police officers. The Borough shall provide the Palmer Police access to the kennels for after hours drop offs.
  3. To an animal owner who seeks to redeem their animal in the custody of the Borough, proper documents to show proof of the owner having complied with the requirements of the City for the release of the animal.

SECTION 4. Payment for Services. The Borough shall charge fees for shelter services as set forth by the Borough Assembly by resolution as stated in MSB 24.15.030 (A) as listed in this section. The City agrees that the Borough shall charge these fees when an owner redeems an animal. The Borough shall accept and keep such fees as payment for Borough provided services.

For animals impounded by the City and placed at the Borough shelter and where the owner is unknown or refuses to redeem their animal, the Borough shall charge the City the following fees:

- A. For licensed animal the Borough shall keep the animal for a period of 120 hours (five days) at the end of which if the animal is not redeemed the City shall pay to the Borough the fee of \$60.00 per dog, \$50.00 per cat.
- B. For unlicensed animals the Borough shall keep the animal for 72 hours (three days) at the end of which time if the animal is not redeemed by its owner the Borough shall bill the City \$36.00 per dog, \$30.00 per cat, \$30.00 per small animal not including cats or dogs, and \$150.00 per large animal. For large animals there will also be a \$75.00 large animal transport fee.
- C. At the end of the required holding period, 120 hours for licensed and 72 hours for unlicensed animals, the City shall forfeit ownership of the same

animal to the Borough for disposal as provided for under MSB 24.15.050, and the Borough Animal Care and Regulation Policy and Procedures. Such disposal may include adoption, auction, sale, or humane euthanasia. If the animal is euthanized the City shall pay to the Borough the \$25.00 euthanasia fee and the \$30.00 cremation fee.

- D. The Borough shall provide an itemized statement each month to the City which is obligated to reimburse the Borough for expenses under this contact. The Borough shall also include with the itemized statement a completed animal complaint form detailing the location within the City limits where the animal was retrieved. This will not be required with animals that are brought to the Borough at the direction of or by the City. The City shall make payment for such statement within 30 days of the receipt of the statement.
- E. The City agrees to pay the Borough for required quarantine of any animal which shall be no less than 10 days as required by State law. The quarantine fees shall be \$12.00 a day per dog, \$10.00 per day per cat, and \$50.00 per day for large animals.
- F. The Borough shall have the right to enter into payment agreements with an owner, waive any or all of the fees, set check acceptance procedures, allow for the acceptance of credit cards and to set any other fiscal policies as may be necessary and proper for the operations of the shelter. In the event that the Borough waives any or all of the fees owed by an owner(s) the City shall not be responsible for any portion of that waived fee.

SECTION 5. Termination. The Borough and the City may terminate this agreement at any time by giving thirty (30) days written notice of such termination to the other party at the address of the contract administrator described in Section 6 of this agreement. The city shall be required to pay all fees accrued up to the date of the termination, as well as all fees accrued after termination for animals required to be held by the Borough under this agreement, Borough Code, or state law.

SECTION 6. Contract Administrator. For the duration of this agreement, the contract administrator for the Borough shall be the Chief Animal Care & Regulation Officer, whose address is 350 E. Dahlia Avenue, Palmer, Alaska 99645. The contract administrator for the City shall be the Director of Public Safety, whose address is 231 West Evergreen Avenue, Palmer, Alaska, 99645.

SECTION 7. Relationship of Parties. The Borough shall perform its obligations under this agreement as an independent contractor of the city. The City may administer this agreement and monitor the Borough compliance with this agreement but shall not supervise or otherwise direct the Borough except to provide recommendations and to provide approvals pursuant to this agreement.

SECTION 8. Integration. This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, or obligations other than those contained herein; and this contract shall supersede all previous

communications, representations, or agreements, either oral or written, between the parties.

**SECTION 9. Indemnification**

**Borough Held Harmless:** The City shall indemnify, defend, and hold and save the Borough, its elected and appointed officers, agents and employees, harmless from liability of any nature or kind, including costs, expenses, and attorney's fees for or on account of any and all legal actions or claims of any character resulting from injuries, death, economic loss, damages, deprivation of constitutional rights, or any other kind of loss sustained by any person, or property arising from the City's, or the City's officers, agents, employees, contractors, subcontractors or suppliers performance of or failure to perform under this Agreement.

**SECTION 10. Severability.** If any section or clause of this agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under law, the remainder of this agreement shall remain in full force and effect.

**SECTION 11. Causes Beyond Control.** In the event the Borough is prevented by a cause or causes beyond its control from performing any obligation under this contract, non-performance resulting from such cause or causes shall not be deemed to be breach of this contract which will render the Borough liable for damages or give rights of cancellation of this contract to the City. However, if and when such cause or causes do prevent performance, the Borough shall exercise all reasonable diligence to resume and complete performance of the obligation with the least possible delay. The phrase "cause or causes beyond control", as used in this section, means any one or more of the following causes which are not attributable to the fault or negligence of the Borough and which prevent the performance of the Borough: fire, explosions, acts of God, severe weather conditions, orders of law by duly constituted public authorities, and other major uncontrollable events. The Borough will determine whether the event preventing performance is a cause beyond the Borough's control.

**SECTION 12. Interest of Municipal Officers and Others.** No officer, member, or employee of the City or the Borough, nor any member of their governing bodies, or other public official of their governing bodies shall participate in any decision relating to this contract which affects his personal interest or interest of any corporation, partnership or association in which he is directly or indirectly interested or having any personal or pecuniary interest, direct or indirect, in this contract or the proceeds thereof.

**SECTION 13. Findings Confidential.** To the extent authorized by law, any reports, information, data, etc., given to, prepared, or assembled under this contract which may be kept confidential shall be made available to any individual or organization by either party without the prior written approval of the other party inasmuch as it complies with Alaska Statutes 40.25.110 through 40.25.120.

SECTION 14. Officials not to benefit. No member of or delegate to the Congress of the United States shall be admitted to any share or part thereof or to any benefit to arise from this contract. No member of the legislature or officer of the State of Alaska, City of Palmer, or the Matanuska-Susitna Borough shall be admitted to any share or part hereof or to any benefit to arise out of this contract.

SECTION 15. Publication, Reproduction and Use of Materials. No Material produced, in whole or in part, under this contract shall be subject to copyright in the United States or in any other country. To the extent authorized by law, the Borough or the City of Palmer shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this contract.

SECTION 16. Jurisdiction; Choice of Law. Any civil action arising from this contract shall be brought in the Superior Court for the Third Judicial District of the State of Alaska at Palmer. The law of the State of Alaska shall govern the rights and obligations of the parties.

SECTION 17. Non-waiver. The failure of the Borough at any time to enforce a provision of this contract shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this contract or any part thereof, or the right of the Borough thereafter to enforce each and every protection hereof.

SECTION 18. Permits, Laws and Taxes. The parties shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to the performance under this contract. All actions taken by the parties under this contract shall comply with all applicable statutes, ordinances, rules and regulations. The parties shall pay all taxes, assessment, or fees pertaining to its performance under this contract.

SECTION 19. Interpretation and Enforcement. This agreement is being executed by the parties following negotiations between them. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in this agreement are not to be construed as limitations or definitions but are for identification issues only.

SECTION 20. Understanding. The parties acknowledge both have read and understand the terms of this agreement, have had the opportunity to review the same with counsel of their choice, and are executing this agreement of their own free will.

SECTION 21. Notices. Any notice required pertaining to the subject matter of the contract shall be personally delivered or mailed by pre-paid first class, registered or certified mail to the following address:

Matanuska-Susitna Borough  
Attn: Chief Animal Care & Regulation Officer  
350 E. Dahlia Ave.  
Palmer, Alaska 66945

City of Palmer  
Attn: Director of Public Safety  
231 West Evergreen Avenue  
Palmer, Alaska 99645

MATANUSKA-SUSITNA BOROUGH

CITY OF PALMER

\_\_\_\_\_  
JOHN DUFFY, Borough Manager

\_\_\_\_\_  
B.B. ALLEN, City Manager

STATE OF ALASKA)  
                                  )ss  
Third Judicial District )

THIS IS TO CERTIFY that on the XXXXX day of XXXXX, 2009, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared JOHN DUFFY, to me known and known to me to be the identical individual described in and who executed the within and foregoing Animal Care & Regulation Services Agreement, as MANAGER for the MATANUSKA-SUSITNA BOROUGH, a municipal corporation, and he acknowledged to me that he signed the same in the name of, for and on behalf of said corporation, freely and voluntarily for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of Alaska  
Commission expires: \_\_\_\_\_

STATE OF ALASKA)  
                                  )ss  
Third Judicial District )

THIS IS TO CERTIFY that on the XXXXX day of XXXXX, 2009, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared B.B. ALLEN, to me known and known to me to be the identical individual described in and who executed the within and foregoing Animal Care & Regulation Services Agreement, as MANAGER for the CITY OF PALMER, a municipal corporation, and he acknowledged to me that he signed the same in the name of, for and on behalf of said corporation, freely and voluntarily for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of Alaska  
Commission expires: \_\_\_\_\_