

**CITY OF PALMER
ACTION MEMORANDUM NO. 13-004**

Subject: Authorize the City Manager to Negotiate and Execute a Contract with the Matanuska Susitna Borough (MSB) for Animal Control Services

Agenda of: January 22, 2013

Council Action: Authorized _____

Approved for presentation by:

City Manager
City Attorney
City Clerk

J. B. Griff

JR

Certification of Funds:

Total amount of funds listed in legislation:	\$ <u>12,000*</u>
This legislation (✓):	
<input type="checkbox"/> Has no fiscal impact	
Creates:	
<input checked="" type="checkbox"/> A negative fiscal impact in the amount of:	\$ <u>12,000*</u>
<input type="checkbox"/> A positive fiscal impact in the amount of:	\$ _____
<input checked="" type="checkbox"/> Funds are budgeted from this (these) line item(s):	
➤ 01-12-30-6030	\$ <u>12,000*</u>
➤	\$ _____
➤	\$ _____
<input type="checkbox"/> Funds are not budgeted. Budget modification is required. Affected line item(s):	
➤	\$ _____
Unrestricted/undesignated fund balance (after budget modification)	\$ _____
Director of Finance signature certifying funds:	
*Contract based upon \$1,000 per month plus additional services if needed	 _____

Attachment(s):

- Contract for Animal Control Services with MSB

Summary statement: The contract for animal control services with the Matanuska Susitna Borough (MSB) has been re-negotiated. For several years, the City of Palmer has paid for animal control services based upon an "a la carte" method, in which the City solely paid for services for individual animals based upon usage. These usage fees were delineated in the contract. The new contract for services is based upon the City paying \$1,000 per month "irrespective of the number of animals placed at the Borough shelter during that month". This

fee will cover the usual and customary expenses for the City's use of MSB animal control services. If the City requests MSB animal control services for an animal over 200 pounds, the City will pay an additional \$75 per transport. Additionally, if the City requests after hours pickup and assist services, the City will be charged \$150 per hour per MSB employee who provides these services. Based upon historical use of these services, the administration projects minimal fiscal impact from any additional use of call outs after hours or for animals in excess of 200 pounds.

This represents a cost increase over the current arrangement. From January through November, 2012, the City remitted \$6,295 to the MSB for animal control services. However, the administration believes that this new contract may provide a more long-term resolution to this issue.

Administration recommendation: Approve action memorandum 13-004.

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

This agreement (hereinafter “contract”) is made and entered into by and between the Matanuska-Susitna Borough, hereinafter referred to as the “Borough”, and the City of Palmer, hereinafter 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 contract shall be effective as of the date it is signed by both parties and for a period of one year thereafter. This contract may be extended by mutual written agreement of the parties, and any such extensions are subject to renegotiation of payment for services provisions as well as amendment of any other terms at the discretion of the parties.

SECTION 2. Definitions.

Animal: For purposes of this contract an animal is defined as any vertebrate domestic animal, which does not include wild animals or game animals, including but not limited to dogs and cats.

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.

Large Animal For purposes of this contract a large animal is defined as any domestic animal, which does not include wild animals or game animals, 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 domestic animal, which does not include wild animals or game animals, 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.

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.

SECTION 3. Scope of Work.

- A. The Borough shall provide, on behalf of the City, the following services:
1. Confine, care, and feed in a humane manner, animals that are brought to the Borough shelter by authorized representatives of the City, by residents of the City, or by other persons, when those animals were found within the City limits.

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 or adopted or that are deemed not adoptable.
5. Hold animals brought to the shelter for at least 72 hours if not licensed and at least 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 out in MSB Title 24.
6. Provide animal adoption services.
7. Provide for rabies quarantine of animals impounded by the City for a period of 10 days, as required by Alaska Administrative Code 7AAC 27.022 (c)(1), unless euthanization is recommended as determined by the Borough veterinarian.
8. Provide pick-up and assist services at the City's request for injured animals, or in certain emergencies. Emergencies are defined as situations where special equipment or animal control skills are required, such as with an animal that requires special handling. The parties agree that this service does not require Borough personnel to routinely pick up stray dogs, cats, or other animals within the City unless the animals are injured or an emergency (as described above) is involved.

B. The City shall provide the following to the Borough:

1. Written authorization for impoundment of any animal found within the City. The City agrees under this contract to provide written authorization either before or after the Borough takes possession of the animal. This requirement does not apply to requests for pick-up or animal submissions by an authorized agent of the City such as a police officer. This requirement does not apply to owner surrenders.
2. A list of people authorized to release animals from impoundment.
3. A current list of police officers. The Borough shall provide the Palmer Police access to the kennels for after hours drop offs.
4. A list of people authorized to request pick-up and assist services, and to commit the City to pay for such services when extra charges are applicable under this contract.
5. 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). 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.

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.

For animals impounded by the City and placed at the Borough shelter, and for other animals originating within the City, and where the owner is unknown or refuses to redeem their animal, the City shall pay a base charge of \$1000 per month, irrespective of the number of animals placed at the Borough shelter during that month. This \$1000 per month base charge also covers pick-up and assist services, except that in certain circumstances as stated below extra charges will be billed. Payments that the Borough receives for shelter services when animals are redeemed shall not be deducted from the \$1000 per month base charge.

For pick-up services involving animals over 200 lbs, there will be an additional charge of \$75.00 per transport.

There will be an additional charge of \$150.00 per hour for all after hours pick-up and assist services. The billed charge shall be \$150.00 per Borough employee per hour and only pertains to services provided off of Borough premises. "After hours" is defined as any time other than Monday through Friday, from 8:00 a.m. to 5:00 p.m.

SECTION 5. Animal Forfeiture. For all animals impounded under this contract, at the end of the required holding period, 120 hours for licensed and 72 hours for unlicensed animals, the City shall forfeit any and all ownership rights in the same animal to the Borough to be disposed of as provided for under MSB 24.15. Such disposal may include adoption, auction, sale, or humane euthanasia.

An exception to forfeiture can be made at the discretion of the Borough Animal Care and Regulation Manager when requested in writing by the City with the understanding and upon the condition that the Borough may bill the City for reasonable extra charges to pay for continued sheltering of the animal by the Borough.

SECTION 6. Termination. Either the Borough or the City may terminate this contract 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 8 of this contract. The City shall be required to pay all fees accrued up to the date of the termination.

SECTION 7. Modifications. The parties may mutually agree to modify the terms of this contract at any time. Modifications to the contract shall be incorporated into the contract by written amendments executed by the parties.

SECTION 8. Contract Administrator. For the duration of this contract, the contract administrator for the Borough shall be the Chief Animal Care & Regulation Manager, 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 9. Relationship of Parties. This contract is entered into by agreement of the parties pursuant to AS 29.35.010(13). In addition, the City may monitor the Borough's compliance with

this contract but shall not supervise or otherwise direct the Borough except to provide recommendations and to provide authorizations pursuant to this contract.

SECTION 10. Integration, No Third Party Beneficiaries. 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. This contract does not and is not intended to confer any rights or remedies upon any person or entity other than the City and the Borough.

SECTION 11. 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 contract.

The City agrees that this indemnification covers, among other things, animals brought to the Borough shelter at the direction of the City or by a resident of the City, and animals that have been found within the City limits.

SECTION 12. 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 13. 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 14. 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 or pecuniary interests, or which affects the interests of any corporation, partnership or association in which he or she is directly or indirectly involved.

SECTION 15. 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 16. 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 17. 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 18. 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 19. 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 20. 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. Each party shall pay all taxes, assessment, or fees pertaining to its performance under this contract.

SECTION 21. 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 22. Understanding. The parties acknowledge both have read and understand the terms of this contract, have had the opportunity to review the same with counsel of their choice, and are executing this contract of their own free will.

SECTION 23. 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:

