MH/vv
05/15/14
Item #16

AN ORDINANCE 2014-05-15-0336

AUTHORIZING A MEMORANDUM OF AGREEMENT WITH JOINT BASE SAN ANTONIO-LACKLAND AND FT. SAM HOUSTON FOR THE CITY TO PROVIDE ANIMAL CARE SERVICES FOR A ONE YEAR PERIOD WITH THE OPTION TO RENEW FOR TWO ONE YEAR TERMS.

* * * * *

WHEREAS, Animal Care Services (ACS) was approached by representatives from Lackland Air Force Base and Fort Sam Houston in March 2014 requesting assistance with an issue of stray animal population on their bases; and

WHEREAS, while Lackland and Fort Sam Houston bases have the capacity to pick up stray pets, they do not have the facilities or the capacity to provide housing, medical, or live release services for these animals; and

WHEREAS, because the two bases are not located within the City boundaries, animal care services are currently not provided by the City within the bases and require a city council approved agreement; and

WHEREAS, after discussions with Lackland/Fort Sam Houston, ACS is willing to provide animal care services under a proposed agreement for a one year period which may be renewed for two one-year periods; **NOW THEREFORE:**

SECTION 1. The City Manager or her designee or the Director of the Animal Care Services Department or her designee is authorized to execute a Memorandum of Agreement with Joint Base San Antonio-Lackland and Fort Sam Houston for the City to provide animal care services for a one year period with the option to renew for two one year terms. A copy of the Memorandum of Agreement is attached hereto and incorporated herein for all purposes as **Attachment I**.

SECTION 2. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 237000000001 and General Ledger 4402121.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

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SECTION 4. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 15th day of May, 2014.

M A Y O R
Julián Castro

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

for Robert F. Greenblum, City Attorney

Agenda Item:	**16 (in consent vote: 4, 5, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 28A, 28B, 29, 29A, 29B)**
Date:	05/15/2014
Time:	09:40:29 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing a Memorandum of Agreement with Joint Base San Antonio-Lackland and Ft. Sam Houston for the City to provide animal care services for a one year period with the option to renew for two one year terms. [Erik Walsh, Deputy City Manager; Kathy Davis, Director, Animal Care Services]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4	x					
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (hereinafter referred to as the ("Agreement") is entered into by and between the City of San Antonio, a Texas Municipal Corporation ("City"), acting by and through its City Manager, or her designee (hereinafter referred to as "Manager"), on behalf of the City's Department of Animal Care Services (hereinafter referred to as "ACS") pursuant to Ordinance No. _____, and Joint Base San Antonio-Lackland and Ft. Sam Houston ("JBSA-LAK/FSH"), both of which may be referred to herein collectively as the "Parties."

WITNESSETH

WHEREAS JBSA-LAK/FSH is in need of animal care services; and

WHEREAS, City possesses the facilities, skills, staff and expertise to provide the required services; and

WHEREAS, JBSA-LAK/FSH and City believe it is in the best interest of JBSA-LAK/FSH for City to provide animal care services; and

NOW THEREFORE, in consideration of the mutual covenants and agreements stated herein, the Parties agree as follows:

PURPOSE

The purpose of this agreement is to establish the terms and conditions under which City will provide JBSA-LAK/FSH with animal care services, including City's and JBSA-LAK/FSH's obligations, the cost and the manner and method of payment.

I. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set out below:

"ACS" is defined in the preamble of this Agreement and includes its successors and assigns;

"Animals" is defined as including both dogs and cats;

"City" is defined in the preamble of this Agreement and includes its successors and assigns;

"JBSA-LAK/FSH" is defined in the preamble of this Agreement and includes its successors and assigns;

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on April 1, 2014 and will continue until March 31, 2015 or terminated by either party in accordance with this Agreement.

2.2 This Agreement may be renewed by City for two (2) successive one year periods on the same terms and conditions. Renewals shall be in writing and signed by the Director of ACS without further action by the San Antonio City Council.

2.3 This Agreement shall terminate in the event sufficient funds are not appropriated by the City to meet City's obligations under this Agreement during any fiscal year.

III. SCOPE

3.1 The City will undertake the following activities during the term of this Agreement:

a. The City will accept stray animals which have been trapped on JBSA-LAK/FSH's property on Lackland Air Force Base or Fort Sam Houston. The City will not perform any patrols on JBSA-LAK/FSH property, respond to calls for stray animals or enter JBSA-LAK/FSH property to retrieve animals.

b. Animals delivered to the ACS facility by JBSA-LAK/FSH will be impounded in accordance with City policies and procedures.

c. Should JBSA-LAK/FSH determine it has a problem with feral cats on JBSA-LAK/FSH property, ACS will assist JBSA-LAK/FSH by providing training regarding proper feral cat trapping, and assist JBSA-LAK/FSH in establishing a Trap-Neuter-Return (TNR) program on base.

    i. If a TNR program is established, JBSA-LAK/FSH would be responsible for humanely trapping and bringing the feral cats to the City. JBSA-LAK/FSH would also provide a method agreeable to both parties that will allow the City to easily and quickly return the feral cat to its original location after sterilization surgery.

    ii. All feral cats brought to the City by JBSA-LAK/FSH are included and will be counted in the maximum number of animals allowed to be brought to the City as indicated in Section 3.1.e and will be charged in accordance with Article IV of this Agreement.

d. Any animals delivered to ACS will be treated as strays, held for the stray hold period, and then, if not reclaimed within the stray hold period, will be adopted, offered to rescues, TNRed, or euthanized as determined by City.

e. City will accept no more than 60 animals from JBSA-LAK/FSH during the term of this Agreement and will accept no more than 3 animals in any one day due to capacity issues. JBSA-LAK/FSH will deliver animals to the City's Animal Care Services Facility located at 4710 State Hwy 151 between the hours of 7:30 AM and 11:00 PM.

f. City will perform all services in accordance with the rules and regulations specified in the City of San Antonio Chapter 5 Ordinances and applicable state laws.

g. City agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV. Compensation.

3.2 JBSA-LAK/FSH shall undertake the following activities during the duration of this Agreement:

a. JBSA-LAK/FSH will catch and humanely trap stray animals on JBSA-LAK/FSH property and deliver them to the ACS facility for impoundment and appropriate disposition.

b. JBSA-LAK/FSH will insure all garbage dumpsters and trash receptacles on JBSA-LAK/FSH property are secured against entry by dogs and cats.

c. JBSA-LAK/FSH will post and enforce non-feeding of dogs and cats on JBSA-LAK/FSH property to discourage animals from visiting, roaming or languishing on JBSA-LAK/FSH property.

d. JBSA-LAK/FSH will promote spay/neuter and responsible pet ownership through JBSA-LAK/FSH's internal publications to those working or living on or off JBSA-LAK/FSH property. ACS will assist with marketing messages.

IV. COMPENSATION

4.1 In consideration of City's performance of all services, activities, duties and responsibilities set forth in this Agreement, JBSA-LAK/FSH agrees to pay City a fee of two hundred twenty seven dollars ($227.00) per animal for every animal brought to ACS by JBSA-LAK/FSH.

4.2 JBSA-LAK/FSH agrees to pay an additional one hundred forty dollars ($140.00) per animal for each animal that is brought to ACS when the facility is not open for general public intake services, but within the hours outlined in Article III Section 3.1.e of this Agreement.

4.3 JBSA-LAK/FSH shall pay City monthly based on the number of animals delivered to City each month.

V. PAYMENT FOR SERVICES

5.1 City shall issue a monthly invoice to JBSA-LAK/FSH addressed to:

502 Civil Engineer Squadron
ATTN: CEO
JBSA-Lackland, TX 78236

Such invoice shall detail the amount of compensation due for animal care services as well as the period of time for which the invoice applies. JBSA-LAK/FSH shall make its payment within thirty (30) days of receipt of each invoice.

5.2 All payments required under this Agreement shall be made payable to the City of San Antonio and forwarded to:

Division of Treasury
P.O. Box 839975
San Antonio, Texas 78283-3975

VI. RECORDS RETENTION

6.1 City shall retain any and all documents produced as a result of services provided hereunder for a period of three (3) years (hereafter referred to as "retention period") from the date of termination of the Contract unless otherwise specified by City policies. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, City shall retain the records until the resolution of such litigation or other such questions.

6.2 City shall notify JBSA-LAK/FSH, immediately, in the event San Antonio receives any requests for information from a third party, which pertains to the documentation and records referenced herein. JBSA-LAK/FSH understands and agrees that San Antonio will process and handle all such requests, regarding records which are possessed by San Antonio.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions hereof.

7.2 This Agreement may be terminated by City or JBSA-LAK/FSH upon thirty (30) calendar days written notice to the other party. If such event shall occur, JBSA-LAK/FSH shall reimburse City all outstanding invoices within thirty (30) days of termination.

7.3 Upon the effective date of expiration or termination of this Agreement, City shall cease all operations of work being performed pursuant to this Agreement.

7.4 Within thirty (30) days from the date of the termination of this Agreement, City shall submit to JBSA-LAK/FSH and JBSA-LAK/FSH agrees to pay for the services performed under this Agreement prior to the effective date of termination which have not been previously invoiced by City to JBSA-LAK/FSH.

VIII. INSURANCE

8.1 City maintains a self-insurance fund for general liability and worker's compensation claims and causes of action to meet the statutory obligations of its employees.

IX. NOTICES

9.1 All notices to be given under this Agreement shall be in writing and shall either be personally served against a written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid and addressed to the proper party at the address which appears below or at such other address as the parties may designate. All notices given by mail shall be deemed to have been given three (3) days after the time of deposit in the United States mail and shall be effective from such date.

If to JBSA-LAK/FSH:

502 Civil Engineer Squadron
ATTN: CEO
JBSA-Lackland, TX 78236

If to City:

Animal Care Services
Attn: Director
4710 State Highway 151
San Antonio, TX 28227

X. AMENDMENTS

10.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and JBSA-LAK/FSH.

XI. SEVERABILITY

11.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the San Antonio City Charter, San Antonio City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision

was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Contract a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XII. LAW APPLICABLE

12.1 FEDERAL LAW WILL GOVERN THIS AGREEMENT AND THE PARTIES WILL COMPLIY WITH FEDERAL,STATE, AND MUNICIPAL LAWS, CODES, AND REGULATIONS TO THE EXTENT NECESSARY TO PERFORM THE WORK HEREIN. IN THE EVENT OF A CONFLICT BETWEEN FEDERAL LAW AND STATE LAW AS WELL AS MUNICIPAL LAW, FEDERAL LAW WILL CONTROL.

ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

12.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this agreement shall be heard and determined in Bexar County, Texas.

XIII. LEGAL AUTHORITY

13.1 The signer of this Agreement for JBSA-LAK/FSH represents, warrants, assures and guarantees that he/she has full legal authority to execute this Agreement on behalf of JBSA-LAK/FSH and to bind JBSA-LAK/FSH to all of the terms, conditions, provisions and obligations herein contained.

XIV. PARTIES BOUND

14.1 This Agreement shall be binding on and insure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XV. ASSIGNMENT

15.1 Neither party may assign its rights, privileges or obligations under this Agreement, in whole or in part, without the written consent of the governing body of the other party. Any attempt to assign without such approval shall be void.

XVI. COMPLIANCE WITH LAWS AND ORDINANCES

16.1 The parties hereby agree to comply with all federal, state, and local laws and ordinances applicable to the work or services to be performed under this Agreement.

XVII. ENTIRE CONTRACT

17.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire Agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other Agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same is in writing, dated subsequent to the date hereto and duly executed by the parties, in accordance with Article X. Amendments. This Agreement shall supersede any and all prior written and oral agreements between City and JBSA-LAK/FSH.

EXECUTED and **AGREED** to this the _____ day of _____, 2014.

CITY OF SAN ANTONIO

_____
Erik Walsh
Deputy City Manager

JOINT BASE SAN ANTONIO-LACKLAND AND FT. SAM HOUSTON

_____
JOANN HERNANDEZ, GS-14, DAF
Deputy Director, 502d Contracting Squadron

_____
MICHAEL J. GRIZER, P.E.
Joint Base Civil Engineer

Approved as to Form:

_____
City Attorney