

AN ORDINANCE 2012-01-19-0022

APPROVING A CONTRACT WITH THE HUMANE SOCIETY OF SAN ANTONIO, A HIGH VOLUME PET PARTNER, TO INCREASE ANIMAL CARE SERVICES' LIVE RELEASE RATE BY UP TO 2,000 RESCUES IN THE AMOUNT OF \$100,000.00 FOR A PERIOD OF UP TO ONE YEAR.

* * * * *

WHEREAS, the Animal Care Services Strategic Plan revised in late FY 2011 identified three main objectives: (1) enhance enforcement; (2) controlling the stray animal population; and (3) improving the live release rate; and

WHEREAS, in an effort to increase the City's live release rate, the Strategic Plan recommended identifying a High Volume Pet Partner (HVPP) that would rescue minimally 6,000 animals per year by FY 2015; and

WHEREAS, the HVPP concept has proven successful in other cities throughout the country who are currently achieving live release rates of 90% or greater such as Austin, TX and Washoe County, NV; and

WHEREAS, staff has formulated three distinct approaches to facilitating a HVPP; and

WHEREAS, one approach involves enhancing an existing relationship with the Humane Society of San Antonio (HSSA), a local charitable animal protection organization who focuses on improving the lives of animals in the community which would result in the rescuing of up to 2,000 additional animals from the Animal Care Services Department (ACS) by HSSA; and

WHEREAS, ACS has increased its live release rate primarily due to the added animal rescues from the Humane Society of San Antonio and San Antonio Pets Alive which will continue as these collaborations are formalized; **NOW THEREFORE**:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or her designee or the Director of the Animal Care Services Department or his designee is authorized to execute a contract with the Humane Society of San Antonio, a High Volume Pet Partner, to increase the Animal Care Services Department's live release rate by up to 2,000 rescues in the amount of \$100,000.00 for a period of up to one year. A copy of the contract in substantially final form is attached hereto and incorporated herein for all purposes as **Attachment I**.

SECTION 2. Funding in the amount of \$100,000.00 for this ordinance is available in Fund 11001000, Cost Center 3703010005 and General Ledger 5201040, as part of the Fiscal Year 2012 Budget.

SECTION 3. Payment not to exceed \$100,000.00 is authorized to the Humane Society of San Antonio and should be encumbered with a purchase order.

SECTION 4. 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.

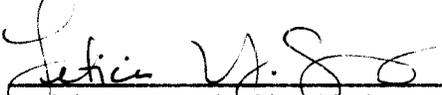
SECTION 5. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 19th day of January, 2012.

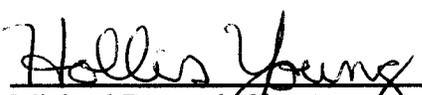


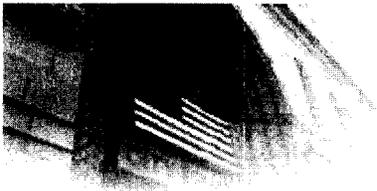
M A Y O R
Julián Castro

ATTEST:


for Leticia M. Vacek, City Clerk

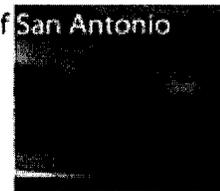
APPROVED AS TO FORM:


for Michael Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 6A

Name:	6A, 6B						
Date:	01/19/2012						
Time:	09:57:26 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving a contract with the San Antonio Humane Society, a High Volume Pet Partner, to increase ACS's live release rate by up to 2,000 rescues in the amount of \$100,000.00 for a period of up to one year.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x			x	
Ivy R. Taylor	District 2		x				
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				x
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

HIGH VOLUME PET PARTNERSHIP AGREEMENT

STATE OF TEXAS §
COUNTY OF BEXAR §

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation ("City") and Humane Society of San Antonio ("HSSA"), both of which may be referred to herein collectively as the "Parties".

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

WHEREAS, the City's Animal Care Services ("ACS") Strategic Plan Update identified the need for the City to partner with a High Volume Pet Partner to increase ACS' live release rate; and

WHEREAS, ACS staff is committed to the Strategic Plan Update in order to increase adoptions, rescues, and returns to owner; and

WHEREAS, HSSA is a non-profit organization that is dedicated to protecting and improving the lives of dogs and cats by providing shelter, care, adoption, rescue, spay/neuter, and community education and can commit to providing assistance and management with a high volume of animals from ACS; and

WHEREAS, HSSA and the ACS desire to cooperate on a project aimed at increasing ACS' live release rate through HSSA rescues from ACS; and

WHEREAS, the purpose of this agreement is to define the terms and conditions of HSSA and the City's participation in the project and to define the obligations and expectations of HSSA and the City; NOW THEREFORE:

I. DEFINITIONS

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

"Building One" shall mean the building designated as such by ACS located at the Highway 151 ACS facility which will be used by HSSA for the operation of activities under this Agreement.

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

"Community Rescue Baseline" shall mean the total number of rescued animals from ACS in FY 2011, other than as a result of HSSA's Rescues which is 2,352 animals.

“Director” shall mean the director or interim director of City’s Animal Care Services.

“Qualifying Animal” shall mean those animals rescued by HSSA above the HSSA 2012 Baseline since October 1, 2011.

“Rescue” shall mean the permanent transfer of an animal into the care of HSSA or its affiliates from ACS either through the Building One transfer model or standard post ACS intake transfers.

“HSSA” is defined in the preamble of this Agreement and includes its successors.

“HSSA 2012 Target” shall mean 2,000 animals.

“HSSA 2012 Baseline” shall mean 361 animals.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on January 1, 2012 and terminate on September 30, 2012.

III. SCOPE OF SERVICES

3.1 Obligations of HSSA:

3.1.0 HSSA will Rescue up to 2,000 Qualifying Animals from ACS during the term of this Agreement.

(a) For all animals Rescued by HSSA under this Agreement, HSSA will provide at its expense proper care of all animals to include but not limited to, providing food, water, shelter and appropriate veterinary care for so long as such animals remain under the care and control of HSSA.

(b) HSSA will insure that each Rescued animal is sterilized prior to the animal leaving the care and control of HSSA.

(c) HSSA will operate Building One and select animals for Rescue based on HSSA policies. HSSA agrees to use Building One solely for the activities set out in the Agreement.

(d) HSSA will provide paid staff members and qualified volunteers needed to man Building One during the hours that HSSA will be utilizing that facility.

(e) HSSA will use Building One for the purpose of intake only and will not leave animals there overnight unattended, nor will any HSSA adoptions be conducted out of Building One. HSSA staff or volunteers shall be present at Building One whenever there are

animals in the building. All animals Rescued at ACS will be transported by HSSA to a HSSA location for disposition.

(f) HSSA agrees to do all possible to ensure that no damage is done to ACS' property outside of that considered normal wear and tear. HSSA shall be responsible for any damage outside of normal wear and tear.

(g) HSSA agrees it will not make alterations, improvements or changes to Building One.

(h) HSSA will be responsible for the daily cleaning of Building One and maintain it in a clean and safe condition.

(i) HSSA will provide positive press at all times regarding ACS. Any publicity efforts by HSSA related to its collaboration with ACS or activities at an ACS facility shall be submitted by HSSA to ACS for review and approval not less than 48 hours in advance of the proposed dissemination date. Materials may not be disseminated without the express approval of ACS, which approval will not be unreasonably withheld.

(j) While on the premises, HSSA staff and volunteers will wear identifying apparel or badges while performing activities under this Agreement.

(k) HSSA will inform ACS of any disease outbreaks at Building One or at HSSA facilities.

(l) HSSA shall maintain records and documentation pertaining to the disposition of all animals Rescued by HSSA under this Agreement. Information to be maintained by HSSA shall include, but is not limited to, whether the animals were adopted out or transferred to rescue groups/organizations, adopter/rescue organization information and sterilization documentation. Upon ACS' request, HSSA shall make such records available to ACS. City shall have the right to modify the required documentation to be maintained by HSSA.

(m) If a HSSA Qualifying Animal is returned to ACS, HSSA shall accept the return of such animals and transfer the animals into HSSA's care within 24 hours from the time the animal is returned to ACS unless the parties agree otherwise.

(n) Upon expiration of the term of this Agreement, HSSA shall deliver all keys, key cards, and other access devices to Building One.

3.2 Obligations of City:

(a) ACS will make animals available to HSSA for Rescue unless unavailable for Rescue as determined by ACS.

(b) ACS will provide HSSA access to Building One for the operation of activities under this Agreement.

(c) ACS agrees that HSSA will incur no charge for rent, maintenance, or property insurance for the use of Building One, save that for designated staff, volunteers and supplies.

(d) ACS will provide basic tools, supplies and equipment needed to clean the kennels in Building One.

(e) ACS will be responsible for the facility upkeep of Building One.

(f) ACS agrees no other organizations, rescue groups or shelters may have use of Building One during the course of this Agreement without prior approval of the Director or Director of Operations of the HSSA. HSSA agrees ACS may terminate HSSA' use of Building One without terminating this Agreement to allow HSSA to Rescue animals from ACS kennels.

(g) ACS will provide a computer, printer and internet access to HSSA staff and volunteers in Building One for the purposes of entering animals into HSSA' shelter management database and volunteer time management.

(h) ACS will re-key and restrict access to Building One to key staff at ACS and HSSA staff and volunteers working at ACS for the purposes of animal intake.

(i) ACS will provide positive press at all times regarding HSSA. Any publicity efforts by ACS related to its collaboration with HSSA shall be submitted by ACS to HSSA for review and approval not less than 48 hours in advance of the proposed dissemination date. Materials may not be disseminated without the express approval of HSSA, which approval will not be unreasonably withheld.

(j) ACS agrees to seek HSSA' pre-approval before placing other animals in Building One.

(k) ACS will endeavor to ensure that it is practicing established best practices for shelter medicine and sanitation and will inform HSSA of disease outbreaks in ACS kennels.

(l) ACS will provide all animals transferred from ACS kennels a distemper/parvo vaccine and intra nasal bordatella. If an animal has not received these vaccines the HSSA will be notified prior to accepting said animal.

3.4 All work performed by HSSA hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by HSSA, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should HSSA's work not be

satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate.

III. COMPENSATION TO HSSA

4.1 In consideration of HSSA's performance in a satisfactory and efficient manner of all services and activities set forth in this Agreement, City agrees to pay HSSA an amount up to \$100,000.00 as total compensation. HSSA shall invoice the City in accordance with the following:

4.2 City shall pay HSSA \$25,000.00 on or before February 13, 2012. This payment shall be a prepayment for the first 500 HSSA Qualifying Animals. In the event this Agreement is terminated by HSSA prior to HSSA achieving 500 Qualifying Animals, HSSA shall immediately return all prepaid unearned funds to City when HSSA submits its notice of termination to City.

4.3 After HSSA achieves the initial 500 Qualifying Animals, HSSA will be compensated \$50.00 per Qualifying Animal as follows:

4.3.1 If the Community Rescue Baseline has not been reached, payment shall be in two payments, \$30.00 per Qualifying Animal, and the balance of \$20.00 per Qualifying Animal shall be paid once the Community Rescue Baseline is achieved.

4.3.2 If the Community Rescue Baseline has been reached, payment to HSSA shall be in one payment of \$50.00 per Qualifying Animal.

4.3.3 If the Community Rescue Baseline has not been achieved when HSSA reaches 2,000 Qualifying Animals, additional Qualifying Animals facilitated by HSSA shall count towards achieving the Community Rescue Baseline in order to provide payment of the balance fee of \$20.00 per Qualifying Animal to HSSA. However, no compensation shall be provided for these additional Qualifying Animals.

4.4 HSSA shall submit a monthly invoice to City, in a form acceptable to City and with appropriate documentation as required by City, which City shall pay within 30 days of receipt and approval by Director. Invoices shall be submitted to: City of San Antonio, Accounts Payable, P.O. Box 839976, San Antonio, Texas 78283-3976, with a copy to City of San Antonio, Animal Care Services Department P.O. Box 839966, San Antonio, Texas 78283-3966.

4.5 No additional fees or expenses of HSSA shall be charged by HSSA nor be payable by City. The parties hereby agree that all compensable expenses of HSSA have been provided for in the total payment to HSSA as specified in Section 4.1 above. Total payments to HSSA cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the City.

4.6 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to HSSA following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than HSSA, for the payment of any monies or the provision of any goods or services.

V. OWNERSHIP OF DOCUMENTS/INTELLECTUAL PROPERTY

5.1 Any and all records, data, finished or unfinished documents, writings, reports, charts, schedules, or information produced by, or on behalf of, HSSA, and any related responses, inquiries, correspondence and materials which has come into HSSA's custody, even if not produced by, or on behalf of, HSSA, in whatsoever form and character (hereinafter referred to as "documents") pursuant to the provisions of this Agreement are the exclusive property of City; and no such documents shall be the subject of any copyright or proprietary claim by HSSA.

5.2 HSSA understands and acknowledges that as the exclusive owner of any and all such documents, City has the right to use all such documents as City desires, without restriction or further compensation to HSSA. HSSA shall deliver, at HSSA's sole cost and expense, all Agreement related documents and reports to the City in accordance with the dates established under this Agreement, and in a timely and expeditious manner, and if a delivery date is not specified, then upon termination of the Agreement.

5.3 HSSA shall notify City immediately of any requests for information from a third party which pertain to documents obtained and/or generated pursuant to this Agreement. HSSA understands and agrees that City will process and handle all such requests.

5.4 Both parties agree to display the name, emblem, or trademarks of the HSSA and City only in the case of defined projects and only with the prior express written consent of the other party.

VI. RECORDS RETENTION

6.1 HSSA and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 HSSA shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. 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, HSSA shall retain the records until the resolution of such litigation or other such questions. HSSA acknowledges and agrees that City shall have access to any and

all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require HSSA to return the documents to City at HSSA's expense prior to or at the conclusion of the retention period. In such event, HSSA may retain a copy of the documents.

6.3 HSSA shall notify City, immediately, in the event HSSA receives any requests for information from a third party, which pertain to the documentation and records referenced herein. HSSA understands and agrees that City will process and handle all such requests.

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 Termination Without Cause. This Agreement may be terminated by City or HSSA upon 30 days written notice, which notice shall be provided in accordance with Article VIII. Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.3.2 By its actions or statements, HSSA materially harms the reputation of the City, as determined by the City in its reasonable judgment.

7.3.3 Any court, judicial body, or administrative agency makes a final determination that, following the Effective Date, HSSA has violated any laws, ordinances, or governmental regulations pertaining to animal welfare, which violation constitutes abuse, mistreatment, or gross or repeated neglect of animals.

7.4 Defaults With Opportunity for Cure. Should HSSA default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. HSSA shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If HSSA fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new contractor against HSSA's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

- 7.4.1 Bankruptcy or selling substantially all of company's assets
- 7.4.2 Failing to perform or failing to comply with any covenant herein required
- 7.4.3 Performing unsatisfactorily as determined by Director

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, HSSA shall effect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by HSSA, or provided to HSSA, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by HSSA in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at HSSA's sole cost and expense. Payment of compensation due or to become due to HSSA is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, HSSA shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by HSSA to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by HSSA of any and all right or claims to collect moneys that HSSA may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, HSSA shall cease all operations of work being performed by HSSA or any of its subcontractors pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue HSSA for any default hereunder or other action.

VIII. NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the

addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
Animal Care Services Department
Attn: Director or Interim Director
4710 State Hwy 151
San Antonio, TX 78227

If intended for HSSA, to:

Humane Society of San Antonio
Attn: Nancy F. May
Interim Executive Director
4804 Fredericksburg Road
San Antonio, TX 78229

IX. INSURANCE

9.1 Prior to the commencement of any work under this Agreement, HSSA shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Animal Care Services Department, which shall be clearly labeled "High Volume Pet Partnership Agreement" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Animal Care Services Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

9.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.

9.3 HSSA's financial integrity is of interest to the City; therefore, subject to HSSA's right to maintain reasonable deductibles in such amounts as are approved by the City, HSSA shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at HSSA's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

TYPE	AMOUNTS
1. Workers' Compensation 2. Employers' Liability	Statutory \$500,000/\$500,000/\$500,000
3. Broad form Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Independent Contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability f. Damage to property rented by you	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage f. \$100,000
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence

9.4 As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto and may require the deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). HSSA shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. HSSA shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: Animal Care Services Department
P.O. Box 839966
San Antonio, Texas 78283-3966

9.5 HSSA agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;

- Provide for an endorsement that the “other insurance” clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers’ compensation, employers’ liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.
- Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

9.6 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, HSSA shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend HSSA’s performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

9.7 In addition to any other remedies the City may have upon HSSA’s failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order HSSA to stop work hereunder, and/or withhold any payment(s) which become due to HSSA hereunder until HSSA demonstrates compliance with the requirements hereof.

9.8 Nothing herein contained shall be construed as limiting in any way the extent to which HSSA may be held responsible for payments of damages to persons or property resulting from HSSA’s or its subcontractors’ performance of the work covered under this Agreement.

9.9 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided.

9.10 HSSA and any subcontractors are responsible for all damage to their own equipment and/or property.

X. INDEMNIFICATION

10.1 HSSA covenants and agrees to **FULLY INDEMNIFY, DEFEND and HOLD HARMLESS**, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to HSSA’S activities under this Agreement, including any acts or omissions of HSSA, any agent, officer, director, representative, employee, consultant or subcontractor of HSSA, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this

paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT HSSA AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

10.2 The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. HSSA shall advise the City in writing within 24 hours of any claim or demand against the City or HSSA known to HSSA related to or arising out of HSSA's activities under this Agreement and shall see to the investigation and defense of such claim or demand at HSSA's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving HSSA of any of its obligations under this paragraph.

10.3 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by HSSA in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. HSSA shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If HSSA fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and HSSA shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

10.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of HSSA, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for HSSA or any subcontractor under worker's compensation or other employee benefit acts.

XI. ASSIGNMENT AND SUBCONTRACTING

11.1 Except as otherwise stated herein, HSSA may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City. As a condition of such consent, if such consent is granted, HSSA shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor contractor, assignee, transferee or subcontractor.

11.2 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should HSSA assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all

rights, titles and interest of HSSA shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by HSSA shall in no event release HSSA from any obligation under the terms of this Agreement, nor shall it relieve or release HSSA from the payment of any damages to City, which City sustains as a result of such violation.

XII. INDEPENDENT CONTRACTOR

HSSA covenants and agrees that it is an independent Contractor and not an officer, agent, servant or employee of City; that HSSA shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of “respondeat superior” shall not apply as between City and HSSA, its officers, agents, employees, Contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and HSSA. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by HSSA under this Agreement and that HSSA has no authority to bind the City.

XIII. CONFLICT OF INTEREST

15.1 HSSA acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a “prohibited financial interest” in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

15.2 Pursuant to the subsection above, HSSA warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. HSSA further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City’s Ethics Code.

XIV. AMENDMENTS

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 HSSA and evidenced by the passage of a subsequent City ordinance, as to the City's approval; provided, however, during the term of the Agreement and subject to funding availability, the Director of the Animal Care Services Department shall have the authority to execute amendments of this Agreement without further action by the San Antonio City Council, to increase the amount of funding under this Agreement for additional Qualifying Animals.

XV. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA)

Non-discrimination. As a condition of entering into this Agreement, HSSA represents and warrants that it will comply with City's Commercial Nondiscrimination Policy, as described under Section IILC.1 of the SBEDA Ordinance. As part of such compliance, HSSA shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall HSSA retaliate against any person for reporting instances of such discrimination. HSSA shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in City's Relevant Marketplace. HSSA understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of HSSA from participating in City contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. HSSA shall include this nondiscrimination clause in all subcontracts for the performance of this Agreement.

XVI. SEVERABILITY

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 City Charter, 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 Agreement 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.

XVII. LICENSES/CERTIFICATIONS

HSSA warrants and certifies that HSSA and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XVIII. COMPLIANCE

HSSA shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

XIX. NONWAIVER OF PERFORMANCE

Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City, as described in Article XIV. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XX. LAW APPLICABLE

20.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

20.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXI. LEGAL AUTHORITY

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

XXII. PARTIES BOUND

This Agreement shall be binding on and inure 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.

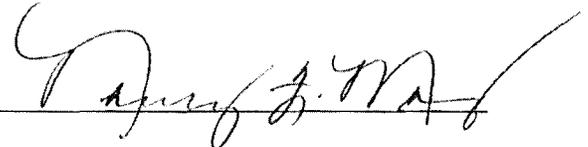
XXIII. ENTIRE AGREEMENT

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 be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XIV. Amendments.

EXECUTED and **AGREED** to as of the dates indicated below.

CITY OF SAN ANTONIO

HUMANE SOCIETY OF SAN ANTONIO

By:  _____

Printed Name: Eric Walsh
Title: Deputy City Manager
Date: _____

Printed Name: Nancy F. May
Title: Interim Executive Director
Date: _____

Approved as to Form:

Michael D. Bernard
City Attorney

**SAN ANTONIO
ANIMAL CARE SERVICES:
COUNCIL ITEM # 6
HIGH VOLUME PET PARTNERSHIPS**

JANUARY 19, 2012

Strategic Plan Overview

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The primary goal of Animal Care Services (ACS) is protecting the health and safety of the citizens and their pets in San Antonio and unincorporated portions Bexar County.

3 Strategic Priorities

1. Enhanced Enforcement of existing laws and codes
2. Controlling the Stray Animal Population
3. Increasing the Live Release Rate



Department Metrics

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THROUGH END OF DECEMBER	FY 2011	FY 2012
Total calls for service	19,231	19,459
Animals impounded	5,978	6,858
Animal Bite calls	1,108	1,117
Citations/Warnings issued	1,163	994
Spay/Neuter surgeries performed	2,810	3,764
Live Release Rate	35%	58%



CNSI Update

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	AREA 1	AREA 2	AREA 3
Dates of Activity	October 7-8	November 18-20	December 9-11
Council Districts	5-6-7	4-5	2-3
Volunteers	75	103	57
Homes Visited	2,000	2,650	1,400
Rabies Vaccines Provided	115	275	Still in progress
Licenses Issued	110	275	Still in progress
Citations / Warnings Issued	0	7	Still in progress
Returns to Owner in Field	3	9	Still in progress
Animals Impounded	29	25	Still in progress

The Comprehensive Neighborhood Sweeps Initiative (CNSI) kickoff for Area #4 (District 1) will take place weekend of January 20-22.

High Volume Pet Partner (HVPP) Initiative

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Background:

- August 2011 City facilitated a work session of 28 stakeholders
- Rescue, Advocacy, Business Community, City Staff

Purpose:

- To identify and establish a plan of action for implementing a successful HVPP for San Antonio to achieve a higher live outcome rate

Timeline:

- September 2011 ACS submitted a Request for Information to solicit ideas for a potential HVPP
- Based on unique responses, staff formulated (3) distinct approaches to facilitating a HVPP

HVPP: San Antonio Humane Society (SAHS)

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Summary:

- Humane Society agrees to rescue an additional 2,000 animals in FY 2012
- Humane Society will rescue owner-released animals as well as those taken from the field.
- SAHS will use Building #1 at ACS as staging area for rescues

In Progress Partnership:

- Since October 2011, SAHS has pulled well over 650 animals from ACS in a pilot over-the-counter program

Expenses

- Up to \$100,000 in FY 2012 for 2,000 total animals (\$50/animal) rescued to support operations
- \$25,000 to be paid up front for start-up expenses (in lieu of payment for first 500 animals)

HVPP: San Antonio Pets Alive (SAPA)

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Up to 4,000 Additional Animals Rescued / Adopted

Partner 2
San Antonio Pets Alive (SAPA)

Partner 3
Local Rescue Partners

Summary:

- SAPA will be compensated for up to 4,000 animal rescues and adoptions per year
- SAPA will have presence on ACS campus to facilitate on-site adoptions, off-site events, and transfers to outside organizations

In Progress Partnership:

- Since October 2011, SAPA has pulled over 450 animals from ACS in a pilot rescue program

Projected start date:
January 2012

Expenses

- Up to \$200,000 for 4,000 additional animals rescued
- \$60,000 to be paid up front for start-up expenses (in lieu of payment for first 1,200 animals)

ACS Comprehensive Rescue Strategy

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HVPP PARTNERS





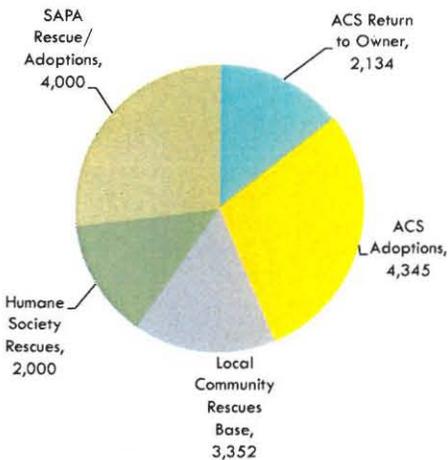
FUNDING OPTION	1. SAN ANTONIO HUMANE SOCIETY	2. SAN ANTONIO PETS ALIVE	3. LOCAL RESCUE PARTNERS	PLAN COST / IMPACT	
				\$350,000	
FULLY FUNDED	Cost	\$100,000	\$200,000	\$50,000	\$250,000 City Funds \$100,000 Donation*
	Animals Rescued/Adopted	2,000 per year	4,000 per year	1,000 per year	7,000 animals per year

***Full funding is available due to PETCO donations**

FY 2012 Projected Live Release

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Total live outcomes with HVPPs



- Live outcomes per Strategic Plan of 10,651 animals
- Live outcomes with new HVPP of 15,831 animals
- High Volume Partnerships will increase live outcome by over 18% above current Strategic Plan

**SAN ANTONIO
ANIMAL CARE SERVICES:
COUNCIL ITEM # 6
HIGH VOLUME PET PARTNERSHIPS**

JANUARY 19, 2012