

CONTRACT FOR PROVIDING ANIMAL SHELTER SERVICES BETWEEN THE HUMANE SOCIETY OF VERO BEACH AND INDIAN RIVER COUNTY, INC. AND INDIAN RIVER COUNTY, FLORIDA

This Contract for Providing Animal Shelter Services for Indian River County, Florida, ("Contract") entered into April _____, 2017, by and between the Board of County Commissioners of Indian River County, a political subdivision of the State of Florida ("County") whose address is 1801 27th Street, Vero Beach, Florida 32960 and the Humane Society of Vero Beach and Indian River County, Florida, Inc. a Florida not for profit corporation, whose address is 6230 77th Street, Vero Beach, Florida 32967 ("Society").

BACKGROUND RECITALS

WHEREAS, the County published a Request for Proposal for Animal Shelter Services for Indian River County, Florida on January 13, 2017; and

WHEREAS, the Society was the only entity that submitted a response to the Request for Proposal; and

WHEREAS, since October 1, 1995, the County and the Society have entered into Contracts, Extensions and Amendments for Providing Animal Shelter Services for Indian River County, Florida; and

WHEREAS, the County has been satisfied with the services provided by the Society in the past and after review of the Society's response to the Request for Proposal for Providing Animal Shelter Services, the County finds that the Society meets the requirements contained in the Request for Proposals.

WHEREAS, the County desires to obtain the Animal Shelter Services of said Society as further described herein; and

WHEREAS, the Society hereby certifies that it has been granted and possesses valid, current licenses to do business in the State of Florida and in Indian River County, Florida, issued by the respective State Board and Government Agencies responsible for regulating and licensing the services to be provided and performed by the Society pursuant to the Contract; and,

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Society agree as follows:

1. The above Background Recitals are true and correct and are incorporated into this Contract.

ARTICLE 1.0 - SCOPE OF SERVICES

The Society hereby agrees to provide and perform the services required and necessary to complete the Scope of Services and work set forth in the Request for Proposals attached as Attachment "A" and Attachment "B" entitled Collection and Transmittal of Revenue to the County; hereto and made a part of this Contract each of which is attached.

ARTICLE 2.0 - ENTIRE AGREEMENT

This Contract is intended by the parties hereto as the final and exclusive expression of the provisions contained in this Contract and it supersedes and replaces any and all prior to contemporaneous contracts

and understandings, oral or written, in connection therewith, between the parties hereto. This Contract may be modified or changed only upon the written consent of the parties hereto.

ARTICLE 3.0- TIME OF PERFORMANCE

The Contract shall begin on May 1, 2017, and end on April 30, 2020, unless otherwise terminated according to the provisions of the Contract. This Contract may be continued for three additional one year periods after the initial term unless either party shall give thirty (30) days' written notice prior to the expiration date.

ARTICLE 4.0- OBLIGATIONS OF THE SOCIETY

The obligations of the Society with respect to all the Services authorized pursuant to this Contract shall consist of the following:

4.1 LICENSES: The Society agrees to obtain and maintain throughout the terms of this Contract all such licenses as are required to do business in the State of Florida and in Indian River County, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the services provided and performed by the Society.

4.2 QUALIFIED PERSONNEL: The Society agrees that when the services to be provided and performed related to a professional service(s), which, under Florida Statutes, requires a license to practice such services, to employ and/or retain only qualified personnel to be in charge of all Services to be provided pursuant to this Contract. In carrying out the provisions of this Contract, all Society employees will be responsible only to the Board of Directors and/or management of the Society. Likewise, the Animal Control Officers employed by the County will be responsible only to and supervised by the Animal Control Director of the Department of Emergency Services.

4.3 STANDARDS OF PROFESSIONAL SERVICE: The Society agrees to provide and perform all services pursuant to this Contract in accordance with the laws, statutes, ordinances, codes, rules, regulations, and requirements of governmental agencies which regulate or have jurisdiction over the services to be provided and/or performed by the Society.

4.4 REPORTS: The Society will provide reports of animals handled monthly utilizing a form and format mutually agreed upon. This report will be delivered to the County no later than the 15th of each month following such service.

4.5 SOCIETY TO HOLD COUNTY HARMLESS: The Society shall be liable and agrees to be liable for, and shall indemnify, defend and hold the County harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorney's fees arising out of the Society's errors, omissions, and/or negligence. The Society shall not be liable to, nor be required to indemnify the County for any portions of damages arising out of any error, omission, and/or negligence of the County, its employees, agents, or representatives.

4.6 COUNTY TO HOLD SOCIETY HARMLESS: The County shall be liable and agrees to be liable for, and shall indemnify, defend and hold the Society harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation

services, and attorney's fees arising out of the County's errors, omissions, and/or negligence, to the extent allowed by law.

ARTICLE 5.0- OBLIGATIONS TO THE COUNTY

5.1 COMPENSATION & METHOD OF PAYMENT: The County agrees to pay the Society as follows for and in consideration of the services as described in this Contract.

\$85.00 per animal for each animal received, excluding requested euthanasia, foster pets, and out of county animals from May 1, 2017 to April 30, 2019

\$90.00 per animal for each animal received, excluding requested euthanasia, foster pets, and out of county animals from May 1, 2019 to April 30, 2020.

The agreed upon sum shall be paid in monthly increments, to be paid within 10 business days after receipt of the monthly Animal Control Report.

5.2 The County and the Society agree that the County will not incur any further expenses other than noted above after an animal is turned over to the Society. The County recognizes the scope of housing services provided by the Society is limited to daily operation and normal occurrence relating to the unwanted pet population in the County (per Attachment A)

The County and the Society mutually agree that in extraordinary circumstances beyond the Scope of Service in Attachment A, direction from the Board of County Commissioners will be obtained as to resolution of the unusual event or occurrence.

ARTICLE 6.0- SECURING AGREEMENT

The Society warrants that they have not employed or retained any company or person other than a bona fide employee working solely for the Society to solicit or secure this Contract and the Society has not paid or agreed to pay any person, company, corporations or firm other than a bona fide employee working solely for the Society any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Contract, with the exception of their legal counsel assisting in the preparation of the Contract.

ARTICLE 7.0- CONTRACTUAL BASIS

The Society shall perform the conditions of the Contract on an independent contractor basis, and nothing contained herein shall be construed to be inconsistent with this relationship or status. The Society and its employees are not employees of the County, and are not entitled to the benefits provided by the County to its own employees. The Society and County shall each file such Federal and State tax returns as may be required of each of them. The Society, as a private employer, and its employees, are not governed or bound by any collective bargaining agreements, employment policies, grievance procedures, or laws/ordinances which may control the relationship between the County, a public employer, and its employees.

ARTICLE 8.0- APPLICABLE LAW

This Contract shall be governed by the laws, rules and regulations of the State of Florida and Indian River County relating to Animal Control, Animal Welfare, and Animal Cruelty.

ARTICLE 9.0- INSURANCE

9.1 INSURANCE COVERAGE REQUIRED

A) The Society shall obtain and maintain such insurance or self-insurance as will protect it from: (1) claims under Workers' Compensation laws, Disability Benefits laws, or other similar employee benefit laws; (2) claims for damages because of bodily injury, occupational sickness or disease, death of any person other than its employees, including claims insured by usual personal injury liability coverage; and (3) from claims for injury to or insured by usual personal injury liability coverage; and (4) from claims for injury to or destruction of tangible property, including loss or use resulting therefrom, any or all of which claims may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of this Contract, whether such services, work and operations be by the Society, its employees, or by any sub-consultant(s), subcontractor(s), or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

B) The insurance protection set forth hereinabove shall be obtained for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.

C) The Society shall require, and shall be responsible for insuring, throughout the time that this Contract is in effect, that any and all of its sub-contractors obtains and maintains until the completion of that sub-contractor's work, such of the insurance coverages described herein and as are required by law to be provided on behalf of their employees.

D) The Society shall obtain, have and maintain during the entire period of this Contract all such insurance or a self-insurance program as set forth and required herein.

9.2 PROVIDER REQUIRED TO FILE INSURANCE CERTIFICATES

A) The Society, within fourteen (14) calendar days of execution of this Contract, shall submit to the County all such insurance certificates or self-insurance program documentation as are required under this Contract. Failure of the Society to submit such certificates and documents within the required time shall be considered cause for the County to find the Society in default and terminate the Contract. Before the Society shall commence any service or work pursuant to the requirements of this Contract, the Society shall obtain and maintain insurance coverage of the types and to the limits specified hereinafter, and the Society shall file with the County certificates of all such insurance coverages.

B) All such insurance certificates shall be in a form and underwritten by an insurance company(s) acceptable to the County and licensed in the State of Florida.

C) Each Certificate of Insurance or self-insurance program documentation shall be submitted to the County in hard copy or electronically.

D) Each Certificate of Insurance shall include the following:

- 1) The name and type of policy and coverages provided;

- 2) The amount or limit applicable to each coverage provider;
- 3) The date of expiration of coverage;
- 4) The designation of Indian River County, Florida, both as an additional insured and as a certificate holder. (This requirement is excepted for Professional Liability Insurance and for Worker's Compensation Insurance); and
- 5) Cancellation - Should any of the described policies be canceled before the expiration date thereof; the issuing company will endeavor to mail 30 days written notice to the Certificate Holder named.

E) If the initial, or any subsequently issued, Certificate of Insurance expires prior to the completion of the work or termination of this Contract, the Society shall furnish to the County renewal or replacement Certificate(s) of Insurance not later than thirty (30) calendar days prior to the date of their expiration. Failure of the Society to provide the County with such renewal certificate(s) shall be justification for the County to terminate this Contract.

9.3 INSURANCE COVERAGES REQUIRED: The Society shall obtain and maintain the following insurance coverages:

A) WORKERS' COMPENSATION: Coverage to comply for all employees for Statutory Limits in compliance with the applicable State and Federal laws. In addition, the policy shall include the following:

- (1) Employer's Liability with a minimum limit per accident in accordance with statutory requirements, or a minimum limit of \$100,000 for each accident, whichever limit is greater.
- (2) Notice of Cancellation and/or Restriction. The policy must be endorsed to provide the County with thirty (30) days prior written notice of cancellation and/or restriction.

B) COMMERCIAL GENERAL LIABILITY: Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy filed by the Insurance Services Office and shall include the following:

- (1) Minimum combined single limit of \$500,000.00 for Bodily Injury Liability and Property Damage.
- (2) Contractual coverage applicable to this specific Contract including any hold harmless and/or such indemnification agreement.

C) COMMERCIAL AUTOMOBILE LIABILITY: Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial Automobile Liability Policy filed by the Insurance Services Office and must include the following:

- (1) Minimum combined single limit of \$500,000.00 for Bodily Injury and Property Damage.
- (2) Coverage shall include owned vehicles, hired and non-owned vehicles, and employee non-ownership.

ARTICLE 10.0 - RECORDS

10.1 MAINTENANCE OF RECORDS: The Society will keep and maintain adequate records and supporting documentation applicable to all of the services provided and expenses incurred pursuant to the requirements of this Contract. Said records and documentation will be retained by the Society for a minimum of five (5) years from the date of termination of this Contract or for such period as required by law, whichever is less.

The records and documentation referred to in the above paragraph shall be subject to one (1) annual audit at a reasonable time during this contract, with at least thirty (30) days written notice; provided, however, such activity shall be conducted only during normal business hours of the Society and at the expense of the County, which expense shall not be paid out of or deducted from the compensation described in Article 5.0. Any such audit shall be limited to records and documentation relating to revenues and expenditures of funds provided by or due to the County.

ARTICLE 11.0- TERMINATION

11.1 This Contract may be terminated by the County at its convenience, by giving 180 days written notice to the Society. The County may, if due to the fault of the Society, without prejudice to any other right or remedy, after 90 days written notice, terminate this Contract if:

- A. The Society is adjudged to be bankrupt or insolvent.
- B. The Society makes any assignment for the benefit of creditors.
- C. A trustee or receiver is appointed for the Society or for any of the Society's property.
- D. The Society files a petition or seeks in any manner to take advantage of any debtor's act or to reorganize under bankruptcy or any similar law.
- E. The Society violates any material provision of this Contract and has failed to cure such violation after 30 days written notice from the County, which describes the alleged violation, and requests cure.

11.2 The Society may terminate this Contract by submitting a written notice to the County dated not less than 180 days prior to the termination date and stating the reason(s) for such termination.

11.3 Termination is effective on the date specified on the written notice. In any event of termination under this paragraph, the Society shall be paid for all animals received until termination, and shall retain all rights and remedies, if any, provided by law.

ARTICLE 12.0 -NOTICES AND ADDRESSES

12.1 NOTICES BY SOCIETY TO COUNTY: All notices required and/or made pursuant to this Contract to be given by the Society to the County shall be given by the United States Postal Services, Certified Mail, Return Receipt Requested, to the following County address of record:

Indian River County Department of Emergency Services
4225 43rd Avenue
Vero Beach, Florida 32967
Attention: Director of Emergency Services

12.2 NOTICES BY COUNTY TO SOCIETY: All notices required and /or made pursuant to this Contract to be given by the County to the Society shall be made in writing and shall be by the United States Postal Service, Certified Mail, Return Receipt Requested, to the following Society's address of record:

Humane Society of Vero Beach and Indian River County, Inc.
6230 77th Street
Vero Beach, FL 32967
Attention: Michael J. Mandel, Executive Director

ARTICLE 13.0 Public Records Compliance

A. Indian River County is a public agency subject to Chapter 119, Florida Statutes. The Society shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

- (1) Keep and maintain public records required by the County to perform the service.
- (2) Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the County.
- (4) Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the Society or keep and maintain public records required by the County to perform the service. If the Society transfers all public records to the County upon completion of the contract, the Society shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Society keeps and maintains public records upon completion of the contract, the Society shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the Custodian of Public Records, in a format that is compatible with the information technology systems of the County.

B. IF THE SOCIETY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

(772) 226-1424
publicrecords@ircgov.com
Indian River County Office of the County Attorney
1801 27th Street
Vero Beach, FL 32960

C. Failure of the Society to comply with these requirements shall be a material breach of this Contract.

ARTICLE 14.0- ACCEPTANCE

Acceptance of this Contract shall be indicated by the signature of the duly authorized representative of the parties in the space provided.

IN WITNESS WHEREOF, the undersigned duly authorized representatives of the parties have executed this Contract.

HUMANE SOCIETY OF VERO BEACH
AND INDIAN RIVER COUNTY, INC.

INDIAN RIVER COUNTY
Board of County Commissioners

Signature of Authorized Officer

Joseph E. Flescher, BCC Chairman

Authorized Officer (Print Name)

Witnessed by: _____

Approved by BCC _____

Attest:

Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller

By: _____

APPROVED:

Jason E. Brown, County Administrator

Approved as to Form and Legal Sufficiency

By: _____
William K. DeBaal, Deputy County Attorney