

AGENDA SHEET FOR COUNCIL MEETING OF: January 5, 2004

RECEIVED
DEC 22 2003



Submitting Dept.
Public Works & Utilities

Contact Person
Dave Mandyke

CITY CLERK'S OFFICE
Phone No. SPOKANE, WA
625-6320

ADMINISTRATIVE SESSION

- o Contract
- o Report
- o Claims

LEGISLATIVE SESSION

- o Emergency Ord
- o Resolution
- o Final Reading Ord
- o First Reading Ord
- o Special Consideration
- o Hearing
- o Public Safety
- o Public Works 3-10-03

CITY PRIORITY

- o Communications
- o Economic Development
- o Growth Management
- o Human Services
- o Neighborhoods
- o Public Safety
- o Quality Service Delivery
- o Racial Equity/Cultural Diversity
- o Rebuild/Maintain Infrastructure

CLERK'S FILE
RENEWS
CROSS REF
ENG
BID
REQUISITION

OPR 2003-1114
OPR 03-218
3163-03

STANDING COMMITTEES

(Date of Notification)

- o Finance
- o Neighborhoods
- o Planning/Community & Econ Dev

Neighborhood/Commission/Committee Notified:

Action Taken:

AGENDA WORDING:

Authorization to enter into a contract for animal control and shelter services from December 1, 2003 through December 31, 2008 - annual cost \$152,630. ~~161,354.11~~ 1/10/04

BACKGROUND:

(Attach additional sheet if necessary)

On November 6, 2003, the City of Spokane issued the Request for Proposals (RFP) #3163-03 to two agencies for animal control and shelter services, SpokAnimal C.A.R.E. and Spokane County Regional Animal Care and Protective Services, and received proposals from both agencies prior to the November 28, 2003 deadline. SpokAnimal C.A.R.E. proposes to provide services as outlined in the RFP for \$152,630.00 per year. SpokAnimal would retain all fees collected for licensing, fines, penalties, boarding/care, redemptions, adoptions and field services. The proposal from Spokane County requests \$254,432.00 annually with a thirteenth month adjustment period. In addition, \$275,047 start-up costs for equipment and training would be paid in Year One. Also, \$2,086,325.00 building expense is required, the financing of which is to be determined.

RECOMMENDATION:

That a contract through December 1, 2008 be entered into with SpokAnimal C.A.R.E. for \$152,630.00 per year.

Fiscal Impact:

O • N/A

Budget Account:

O • N/A

- Expenditure: \$152,630.00 # 0020 88600 39300 54201
- o Revenue: \$161,354.11 #
- o Budget Neutral

ATTACHMENTS: Include in packets: Proposals

SIGNATURES:

Dave Mandyke
Deputy Dir., Public Works & Utilities

Roger Funtzen
Director, Public Works & Utilities

Molly Ansell
Finance

Janet R.
Legal

Jack Smith
City Administrator for Mayor

Robert M. Higgins
Council President

Laurie Hitchcock
Director, Purchasing

DISTRIBUTION:

- Public Works & Utilities: Attn: D. Mandyke
- Contract Accounting: Attn: Marilyn Simon
- Legal: Attn: T. Szambelan
- Purchasing: Attn: Laurie Hitchcock

SpokAnimal C.A.R.E.
Box 3151
Spokane, WA 99220-3151

COUNCIL ACTION:

January 12, 2004: See Council Action Memo dated January 14, 2004.
January 20, 2004: See Council Action Memo dated January 28, 2004.

Revised - 1/10/03

51-2

City Clerk's No. OPR 2003-1114

CONTRACT

RECEIVED
3-01-04
CITY CLERK'S OFFICE
SPOKANE, WA

THIS CONTRACT is between the CITY OF SPOKANE, Washington State municipal corporation, as "City," and SPOKANIMAL C.A.R.E., a nonprofit corporation, whose address is 714 North Napa Street, Spokane, Washington 99202, as "SpokAnimal."

WITNESSETH:

The parties agree as follows:

1. ANIMAL CONTROL SERVICES. SpokAnimal shall be responsible for all of the City's animal control services including enforcement of all municipal animal regulatory laws presently in effect or hereafter adopted by the City, issuance and control of all animal licensing and providing animal shelter services. The scope of work for animal control services shall be as follows:
 - A. Enforcement Of Animal Regulatory Laws. SpokAnimal shall be responsible for enforcement of the City's animal regulatory laws enacted through City ordinances and policies, as well as all state statutes and Spokane County Health District regulations applicable to the City. The responsibilities will include, but may not be limited to, the following:
 - 1) Investigate complaints.
 - 2) Apprehend and impound stray dogs and cats.
 - 3) Secure evidence of suspected violators.
 - 4) Issue citations for the violation of animal regulatory ordinances and testify in court, when so required.
 - 5) Provide appropriate reports, developed jointly by the parties, to the City pertaining to the enforcement activities.
 - 6) Quarantine animals under the direction of the Spokane County Health District.
 - 7) Pick up injured or dead animals, including all wildlife, except deer and other large animals, on City streets, roads and alleys. If the owner is known, SpokAnimal shall request disposition and instructions and comply with the same, if reasonable, at the owner's expense.

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- 8) Have available the services of a local veterinarian for injured, sick, or diseased animals on a twenty-four (24) hour basis.
 - 9) Provide sufficient personnel (such as secretarial staff and animal shelter staff) to support the enforcement officers.
 - 10) Operate an animal shelter facility. Furnish and maintain a shelter for the handling of all animals from the City, whether they are stray, impounded, or otherwise turned over to SpokAnimal by City residents or City employees acting in their official capacity.
 - 11) Arrange for the humane destruction and disposal of animals as required. Such disposal and destruction shall be accomplished in a manner approved by federal or state regulations that will not subject such animal to any unnecessary pain.
 - 12) Provide an emergency on-call service in cooperation with the Spokane Police Department (or designated agency) to respond to calls concerning injured or dead animals, or those situations threatening the safety of other animals or the public.
 - 13) Provide traps to the public for feral or stray cats, skunks and raccoons.
 - 14) Respond to calls pertaining to dead or injured wildlife threatening the safety of other animals or the public.

B. Licensing.

- 1) SpokAnimal shall be responsible for the issuance of licenses and renewal notices in accordance with City ordinances. SpokAnimal agrees to vigorously pursue the licensing of all animals within the City. A tag shall accompany all licenses sold with a number corresponding to the license. The City shall approve the design of the tag. Upon request, SpokAnimal will provide the City, without cost, a current list of all licensed animals within the City that contains the animal's breed, sex, and color, the name, address and phone number of the owner, the license number and date of expiration.
- 2) SpokAnimal shall develop and implement a canvassing program approved by the City to encourage owners to license their animals and to increase the number of licensed animals.

C. Animal Shelter Services. SpokAnimal shall provide animal shelter services for all animals for which impounding or quarantine is authorized by the City or the Spokane County Health District for all animals subject to the City's jurisdiction. Such services shall include the following:

- 1) Quarantine animals, under the direction of the Spokane County Health District;
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- 2) Have available the services of a local veterinarian for injured, sick, or diseased animals at all hours;
 - 3) Act as the animal shelter operator by furnishing and maintaining a shelter for the handling of all animals, dead or alive, from the City, whether they be stray, impounded, or otherwise turned over to SpokAnimal by City residents, law enforcement officers or employees of SpokAnimal;
 - 4) Provide proper food, water, housing and humane care for all animals under its control pursuant to this contract;
 - 5) Provide sufficient, competent and trained employees to assume the responsibilities of this contract;
 - 6) Administer the Spay and Neuter program ;
 - 7) Adopt out stray or unclaimed animals with animal licenses as requested by the public or required by law; and
 - 8) Provide reports to the City regarding shelter activities, including number of impounds and licensing data.

D. Shelter Facilities. Shelter facilities shall be operated and maintained on twenty-four (24) hours-per-day bases in a neat, clean and sanitary condition, and in compliance with all applicable governmental laws, rules and regulations. The City, through its authorized agents and representatives, shall have the right to enter upon and inspect the facilities during regular business hours, without prior notice, for the purpose of inspecting the shelter facility for compliance with this contract.

E. Animal Boarding Surcharge. This section shall apply only to special or unforeseen expenses incurred by SpokAnimal in the performance of long-term boarding services for animals impounded in the process of litigation or other unusual circumstances outside the scope of services mentioned elsewhere in this contract. SpokAnimal agrees to provide such animal boarding services to the City, when previously approved in writing by the Deputy Mayor or his designee and the City Prosecutor, based on the following schedule:

- 1) FIVE AND NO/100 DOLLARS (\$5.00) per day or part of month; or ONE HUNDRED FIFTY AND NO/100 DOLLARS (\$150.00) per month, whichever is less.
 - 2) No charge will be made to the City for the first seventy two (72) hours of impoundment, but SpokAnimal is not precluded from recovering charges from otherwise responsible persons.
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- 3) Where SpokAnimal has accepted animals for boarding but feels that it is entitled to fees allowed hereunder and has not obtained authorization, it may give two (2) days' written notice to the City that it intends to terminate boarding of the animals. Absent notification within two (2) days from the receipt of notice by the City, SpokAnimal may proceed as specified to dispose of the animals without further obligation to the City. This shall not affect any obligation or liability of SpokAnimal to any third party.
 - 4) Where SpokAnimal's Executive Director determines an animal boarded under this authorization by the City requires veterinary care, the cost may be billed as a part of this section.

F. Shelter Procedures.

- 1) Licensed Stray Animals. SpokAnimal shall obtain the owner information. SpokAnimal shall then attempt to give notice to the owner by way of telephone or mail that the animal is being held at the shelter. If the owner is notified via telephone, this notice, including the time and the name of the person contacted, shall be noted on the release form. The animals shall be held for a minimum of ten (10) days, including weekends and excluding major holidays following their apprehension.
 - 2) Unlicensed Stray Animals. The animals shall be held for a minimum of seventy two (72) hours including weekends and excluding major holidays, following their apprehension.
 - 3) Injured or Diseased Animals. These animals do not have a specific holding period, but may be disposed of at any time at the discretion of SpokAnimal's Executive Director.
 - 4) Other Animals and Wildlife. These animals do not have a specific holding period, but may be disposed of at any time at the discretion of SpokAnimal's Executive Director except as provided by applicable federal, state and local laws and regulations.
 - 5) Animal Redemption. Impounded animals shall be released to owners or custodians only upon proof of ownership and payment of applicable fees.
 - 6) Animal Quarantine. Animals that have bitten people, or are suspected of having bitten people, shall be kept a minimum of ten (10) days from date of bite, or as specified by the Spokane Health District for observation. The animal's owner, if known, shall be responsible for payment of the quarantine fees.
 - 7) Animal Destruction and Disposal. The disposal and destruction of animals shall be accomplished in a manner approved by a state or nationally recognized humane organization that will not subject the animal to any unnecessary pain. SpokAnimal agrees to provide on-going proof of staff training and certification efforts as may be requested.
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- 8) Sterilization. SpokAnimal shall require all stray animals under the terms of this contract to be sterilized, at the responsibility of the adopter, as a condition of adoption. SpokAnimal agrees to actively pursue a one hundred percent (100%) effective spay/neuter rate.
 - 9) Research. SpokAnimal shall not sell, give, or release any animal for research or experimentation purposes.

3. COMPENSATION.

- A. The City shall pay SpokAnimal a subsidy of SIXTEEN THOUSAND FIVE HUNDRED TWELVE and 83/100 DOLLARS (\$16,512.83) per month for December 2003 through December 31, 2005. On January 1, 2005 there will be a 4% adjustment to the contract that will increase the monthly cost to SEVENTEEN THOUSAND ONE HUNDRED SEVENTY-THREE and 34/100 (\$17,173.34).
 - B. If the City exercises the three-year (3) option as mentioned in Section 4 of this Contract, the monthly cost would be THIRTEEN THOUSAND FIVE HUNDRED NINETY and 00/100 DOLLARS (\$13,590.00) per month for January 1, 2006 through December 31, 2006. There will be a 4% adjustment to the contract in January 1, 2007, and a 4% adjustment to the contract in January 1, 2008. SpokAnimal shall make billings to the City by the end of each month for that month's compensation. Payment shall be made within thirty (30) days after receipt of SpokAnimal's application.
 - B. All monies obtained by SpokAnimal for administration and impound fees for stray animals returned in the field and administration and redemption fees for animals physically delivered to SpokAnimal shall accrue and become the property of SpokAnimal.
 - C. SpokAnimal shall set up a separate bank account to deposit THREE DOLLARS (\$3.00) from every license sold to the City on a monthly basis.
 - D. Animal licensing and late penalty revenues shall accrue to and become the property of SpokAnimal, except as provided for otherwise in this contract.
 - E. If call-out or extended services or additional control time is requested in addition to the required contract level of man-hours of weekly patrol, the extra time shall be charged to the City at the rate of THIRTY-FIVE AND NO/100 DOLLARS (\$35.00) per hour. This sum shall be in addition to any other sum authorized by this contract. SpokAnimal shall provide call-out or extended services or additional control time only at the request of the City Administrator, his designee, or Chief of Police.
 - F. For additional compensation, SpokAnimal shall be responsible for the removal and disposal of large wildlife & livestock carcasses, including deer. SpokAnimal shall be responsible for arranging the humane removal and disposal of large wildlife & livestock in a timely manner when requested by the City. SpokAnimal shall be compensated SIXTY FIVE AND NO/100 DOLLARS (\$65.00) for each animal.
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- G. If laws are enacted during the term of this contract that would substantially increase the services of SpokAnimal, the parties agree to meet in good faith to renegotiate the amount of this contract.
 - H. The dollar amount of the subsidy to be paid to the Contractor by the City in each subsequent year after 2004 (January – December) shall be increased by four percent (4%).
 - I. SpokAnimal shall look to the Spokane County Health District for payment of administration and redemption fees for unclaimed animals quarantined under its direction.
 - J. SpokAnimal shall provide the City with service of process, either through registered or certified mail, of all notices for potentially dangerous dog declaration, dangerous dog declaration, or dangerous dog confiscation, as required by City ordinance. Upon application to the City, the City will reimburse SpokAnimal for the cost of the notification.

4. CONTRACT LENGTH. This Contract shall begin on December 1, 2003, and end on December 31, 2005. The City has the option to extend the contract an additional three years (3) till December 31, 2008. The City will provide written notice to SpokAnimal to whether the City will exercise the three-year option no less than six-months (6) prior to the completion the original contract term. Either party may terminate this contract earlier by thirty (30) days' written notice, with or without cause. The City reserves the right to immediately terminate this contract in the event of material default by SpokAnimal.

5. HOURS OF OPERATION. SpokAnimal shall submit to the City, as Attachment "A", a schedule of its operating hours that shall include:

- A. days and hours when the business office and shelter facility are open to the public;
- B. times when animals can be delivered by both the public and law enforcement officers or animal control officers;
- C. times when complaints will be received;
- D. days the office and shelter facility will be closed for holidays; and
- E. times when the shelter will be open to the public.

All changes to the schedule must receive approval of the Deputy Mayor or his designee prior to becoming effective.

6. ENFORCEMENT AND CANVASSING OFFICERS. All enforcement officers shall be suitably uniformed to present a clean, respectable image to the public. SpokAnimal shall be responsible for securing special police commissions to enable the officers to enforce the City's animal regulatory ordinances, including those pertaining to zoning and noise control. All enforcement officers will be trained at City facilities at Contractor's expense in the issuance of criminal complaints and citations, as well as investigation, report preparation and court procedure. SpokAnimal shall provide training as to

methods of animal control and handling procedures. SpokAnimal shall implement a license-canvassing program approved by the City.

7. HOURS OF PATROL. The hours of patrol shall be concentrated on, but not limited to, daylight hours seven (7) days a week. SpokAnimal shall submit to the City as Attachment "B" a schedule of the number of weekly patrol hours. SpokAnimal shall notify the Deputy Mayor or his designee of any changes to its weekly patrol schedule. At the end of each month, SpokAnimal shall furnish the City a report, on approved forms, showing the previous month's weekly number of patrol hours. SpokAnimal shall provide a minimum of two hundred forty (240) patrol-hours a weekly minimum.

8. PATROL VEHICLES. SpokAnimal shall be responsible for providing and maintaining sufficient patrol vehicles to carry out the enforcement activities of the contract. The patrol vehicles shall have a uniform appearance, be conspicuously marked and identified, equipped with communication equipment and equipped in such a manner as to provide humane treatment for the animals transported. SpokAnimal must have sufficient vehicles capable of handling all species of dead wildlife, as specified in this contract.

9. LIAISON OFFICERS. The Deputy Mayor or his designee shall be responsible for the administration of this contract. All reports, recommendations, and other correspondence will be directed to that office. It shall be the duty of the Deputy Mayor to see that the terms of this contract are complied with, and to forward to the City Council all requests for changes in the policy of animal control made by SpokAnimal. SpokAnimal's Executive Director shall act as SpokAnimal's liaison with the City.

10. INSURANCE. During the term of the contract, SpokAnimal shall maintain in force at its own expense, the following insurance:

- A. Workers' Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability or Stop Gap Insurance in the amount of \$500,000;
- B. General Liability Insurance on an occurrence basis, with a combined single limit, of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this contract. It shall provide that the City, its officers, employees and agents are additional insured's but only with respect to SpokAnimal's services to be provided under the contract; and
- C. Automobile Liability Insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired or non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from SpokAnimal or its insurer(s) to the City.

As evidence of the insurance coverages required by this contract, SpokAnimal shall furnish acceptable insurance certificates to the City at the time SpokAnimal returns the

signed contract. The certificate shall specify all of the parties who are additional insured, and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. Insuring companies or entities are subject to City acceptance. SpokAnimal shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

11. RECORDS. SpokAnimal shall maintain accurate and complete records of all animals it handles in the performance of this contract. The records shall contain the following information:

- A. Description of the animal, including its breed, color, size, sex, disposition, where and how the animal was obtained and the animal's owner;
- B. All citizen complaints regarding animals;
- C. All dangerous or potentially dangerous animals and dog bite incidents;
- D. All citations issued, their disposition;
- E. Date, time, location, reason and manner in which the animal was obtained;
- F. Length of time the animal was placed in the animal shelter facility;
- G. Final disposition of animals, including number of animals euthanized or adopted;
- H. Number of patrol and canvassing hours, miles driven, number of licenses sold; and
- I. Any additional information that may be required by the City through its regulatory laws. The above information shall be provided to the Deputy Mayor on a monthly basis on approved forms and shall be accessible to the City during normal business hours.

12. REPORTS/ANNUAL REVIEW. SpokAnimal shall provide the City with a quarterly performance report that includes the following:

- A. SpokAnimal's activities for the previous quarter, with emphasis on problem areas in enforcement and licensing;
 - B. Method and level of enforcement for the upcoming quarter;
 - C. Whether or not any changes in policy will take place from past practices;
 - D. Recommendations to the City Council or the Animal Control Committee concerning fees, licenses, and animal regulatory ordinances;
 - E. Any recommendations or information, related to animal control in the City of Spokane, that are in the interest of the City or the City may request that;
 - F. A financial statement of operations, in accordance with a format to be determined by the City's Chief Financial Officer.
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G. SpokAnimal shall be available to discuss the report with the Deputy Mayor or his or her designee within a reasonable time after the report has been submitted.

H. The Animal Welfare Committee along with City representatives and representatives for animal interest groups will review the SpokAnimal's performance on an annual basis. The Animal Welfare Committee will develop guidelines along with the assistance from citizens and animal interest groups in the promotion of higher standards of care and treatment of animals under this contract.

13. FINANCIAL RECORDS AND AUDITS. SpokAnimal shall maintain complete and accurate records concerning the revenues derived by SpokAnimal from licensing, impound, administrative, boarding, reclaim and adoption fees. The records shall be maintained on a generally accepted accounting basis and shall be clearly identified and readily accessible. SpokAnimal shall allow the City Administrator or his designee, to examine and audit all of SpokAnimal's books and records that relate to this contract during regular business hours on regular business days.

14. CONFIDENTIALITY. SpokAnimal, to the extent allowed by law, will keep all information it receives concerning complaints, names, addresses and phone numbers of complainants and witnesses, and the names, addresses and phone numbers of license holders confidential. SpokAnimal will, to the greatest extent possible, protect an individual's right of privacy and shall not circulate or permit the circulation of this information for commercial purposes or other purposes not related to the duties undertaken in this contract. However, SpokAnimal is not prevented from releasing that information which may be necessary for the location of an animal's owner, or for the gaining of consent for medical treatment.

15. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this contract shall have or acquire any interest in the contract or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the contract.

16. CONDITIONAL LEASE. In the event the City terminates this contract because SpokAnimal has materially defaulted in its duties under this contract, it agrees to lease to the City its patrol vehicles, communication/radio equipment, computer and any necessary kennel space for a minimum of ninety (90) days. SpokAnimal and the City will meet to negotiate the exact terms of this conditional lease. The City whose determination shall be final for the purpose of this section will make the determination of default.

17. COMPUTER SERVICES. SpokAnimal and the City may, by separate contract, arrange for data processing services to be provided by the City to SpokAnimal for the purpose of maintaining records on current animal license holders. If SpokAnimal maintains its own computer system, it shall obtain hardware/software compatible with the City's standard software and which is able to transfer the licensing records to the City's computer system at the end of the contract term at SpokAnimal's sole expense.

18. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subject to discrimination under, or denied employment in the

administration of or in connection with this contract because of race, color, creed, marital status, familial status, religion, sex, sexual orientation, national origin, Vietnam era or disabled veteran' status, age, or disability. SpokAnimal shall comply with all applicable federal, state and local nondiscrimination laws, regulations and policies.

19. AMENDMENTS. This contract may be amended at any time by mutual written agreement between the parties.

20. DISPUTES. This contract shall be performed under the laws of Washington State. Any litigation to enforce this contract or any of its provisions shall be brought in Spokane County, Washington. The prevailing party shall be allowed such reasonable amounts for attorney fees; the court may set costs and expenses as.

21. SEVERABILITY. In the event any provision of this contract should become invalid or unenforceable, the rest of the contract shall remain in full force and effect.

22. INDEPENDENT CONTRACTOR. All activities performed by SpokAnimal, agents, employees or representatives are, for all purposes under this agreement, performed as an independent contractor and shall not be deemed to be an employee of the City, and none of them shall be entitled to any benefits to which City employees are entitled including but not limited to, overtime, retirement benefits, worker's compensation benefits, injury leave or other leave benefits.

23. LIABILITY. SpokAnimal shall defend, indemnify and hold harmless the City, its officers, employees and agents, from all claims, demands, or suits in law or equity arising from SpokAnimal's negligence or breach of its obligations under the contract. SpokAnimal's duty to indemnify shall not apply to liability caused by the sole negligence of the City, its officers, employees and agents. SpokAnimal's duty to indemnify for liability arising from the concurrent negligence of the City, its officers, employees and agents and SpokAnimal, its officers, employees and agents shall apply only to the extent of the negligence of SpokAnimal, its officers, employees and agents. SpokAnimal's duty to indemnify shall survive termination or expiration of the contract.

24. PUBLIC RELATIONS.

A. SpokAnimal will be required to maintain good public relations and a working relationship with the City, other agencies and the public. SpokAnimal and its employees shall be required to obtain public relations training, as approved by the City, once a year.

B. SpokAnimal shall actively serve as a member of the City's Animal Welfare Committee.

Dated: May 2, 2004

CITY OF SPOKANE

By: [Signature]
Deputy Mayor



Attest: [Signature]
City Clerk

Dated: March 1, 2004

SPOKANIMAL C.A.R.E.

Federal Tax I.D. No. 91-1223929

City of Spokane Business License No.
L0322473

By: 
Title: Executive Director

Approved as to form:


Assistant City Attorney

33c36

SPOKANIMAL EXTENSION CALCULATIONS

*If the City elects to exercise the three year option the below calculations show the cost of exercising the option,

A. 2006 Based on Bid annual cost to City: \$151,000.

4% 2005

4% 2006

\$12,080.

\$163,080

Monthly Cost to City: \$13,590.00

B. 2007

4% increase

\$6,523.20

\$169,603.20

Monthly Cost to City: \$14,133.60

C. 2008

4% increase

\$6,784.19

176,387.39

Monthly Cost to City: \$14,698.95

01-05-04
2003

AGENDA SHEET FOR COUNCIL MEETING OF: December 15, 2003

RECEIVED

DEC 04 2003



Submitting Dept.
Public Works & Utilities

Contact Person
Dave Mandyke

Phone No.
6320

CITY CLERK'S OFFICE
SPOKANE, WA

ADMINISTRATIVE SESSION

- Contract
- Report
- Claims

LEGISLATIVE SESSION

- Emergency Ord
- Resolution
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CITY PRIORITY

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- Quality Service Delivery
- Racial Equity/Cultural Diversity
- Rebuild/Maintain Infrastructure

CLERK'S FILE

RENEWS

CROSS REF

ENG

BID

REQUISITION

OPR 2003-1063

OPR 02-1052

RES 03-111

2001034

CR

STANDING COMMITTEES

(Date of Notification)

- Finance
- Neighborhoods
- Planning/Community & Econ Dev

- Public Safety
- Public Works

Neighborhood/Commission/Committee Notified:

Riverside Neighborhood

Action Taken:

AGENDA WORDING:

2004 Operations Agreement with the Downtown Spokane Partnership for security and maintenance services within the Downtown Spokane Parking Business Improvement District from January 1, 2004 through December 31, 2004 (Riverside Neighborhood Council)

BACKGROUND:

(Attach additional sheet if necessary)

This agreement will provide for supplemental security and maintenance services within the Downtown Spokane Parking Business Improvement District (BID). The services provide for removal of graffiti; cleaning sidewalks, crosswalks and tree wells; emptying trash containers and recycling; cleaning alleys and other general clean-up work. In addition, the Downtown Spokane Partnership shall hire, supervise and manage the Security Ambassador's program that will provide hospitality, supplemental security, police coordination, response to emergencies, and information and assistance to visitors within the BID boundaries.

RECOMMENDATION:

Approve

Fiscal Impact	○ N/A	Budget Account:	○ N/A
● Expenditure: \$150,000.00		# 1480 25400 14240 54201	
○ Revenue: \$		#	
○ Budget Neutral			

ATTACHMENTS:

Include in Packets:

On file for Review in Office of City Clerk: 2004 Operations Agreement

SIGNATURES:

Deputy Director, Public Works & Utilities

Director, Public Works & Utilities

Finance

Legal

City Administrator for Mayor

Council President

DISTRIBUTION:

Public Works & Utilities
Engineering Services
Legal, Mike Piccolo

Finance
Accounting
Neighborhood Services

Downtown Spokane Partnership
Attn: Mike Edwards
211 North Wall Street, Suite 300
Spokane, WA 99201

COUNCIL ACTION:

APPROVED BY
SPOKANE CITY COUNCIL:

December 15, 2003

CITY CLERK

4-1

OPR 03-1063

2004 Operations Agreement

THIS AGREEMENT is effective as of the 1st of January 2004, by and between the CITY OF SPOKANE, a municipal corporation, having its main office at 808 West Spokane Falls Blvd. in Spokane, Washington (hereinafter called "City"), and DOWNTOWN SPOKANE DEVELOPMENT ASSOCIATION, INC., d.b.a. DOWNTOWN SPOKANE PARTNERSHIP, a Washington nonprofit corporation (hereinafter called "Corporation"), having an office for the transaction of business in Spokane, Washington.

WITNESSETH:

WHEREAS, the City desires to obtain certain supplemental security and maintenance services to provide for a cleaner, safer, more attractive downtown area and, pursuant to the authority granted under RCW 35.87A, has established the Downtown Spokane Business Improvement District (the "BID"), as described in City Council Ordinance No. C-32923 (the "Ordinance"); and

WHEREAS, the Corporation is willing and able to provide such supplemental security and maintenance services, as hereinafter described, on the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties contained herein, the parties covenant and agree as follows:

4-2

ARTICLE ONE
SCOPE OF SERVICES

1.1 Purpose. The purpose of this Agreement is to provide security and maintenance services within the BID boundaries to supplement security and maintenance programs funded with BID assessment income and general municipal services delivered by the City.

1.2 Compliance With Laws. The Corporation shall comply with all applicable laws, ordinances and codes of the United States, State of Washington and City of Spokane, including Ordinance C-32923. The Corporation shall not discriminate against any worker, employee, or applicant, or any member of the public, because of race, creed, color, religion, sex, or national origin, nor otherwise commit an unfair employment practice. The Corporation further agrees that a similar clause will be incorporated in all contracts entered into with suppliers and subcontractors, and all labor organizations furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with this Agreement. During the term of this Agreement, the Corporation shall make a good faith effort to utilize minority business enterprises and women business enterprises consistent with the policy and ordinances of the City. The City will provide the Corporation with copies of all such policies and ordinances.

1.3 Work Programs. The Corporation shall, during the term of this Agreement, perform the security and maintenance services described in Article Two hereof, as such services may be further defined, limited or expanded in the applicable scope of work and budget as described in Exhibit "A".

1.4 Progress Reports and Audits. The Corporation shall provide quarterly progress reports to the City no later than thirty days following the end of each quarter: March 31st, June 30th, September 30th and December 31st of each year covered by this Agreement. In carrying out its work programs under this Agreement and developing

plans as described in Article Two hereof, the Corporation shall coordinate and consult with staff from the appropriate City departments, as designated by the Mayor's Office (the "Office"). The Corporation shall observe and comply with any applicable City approval and permit processes in carrying out its work programs.

1.5 Service Levels Within BID. The City shall continue to provide within the BID the same level of security and maintenance services as were provided within the BID boundaries as of January, 2002 and not otherwise funded with parking and Business Improvement Area assessments. It is the City's intention not to use or rely on any services provided as the result of the creation of the BID, this Agreement or any subsequent agreement to relieve or lessen the obligation of the City to provide such existing services within the BID, except as may be otherwise agreed by the parties hereto. The parties recognize that the general level of municipal services provided by the City is subject to the annual budget and appropriation processes of the City, as mandated by State law. The parties also recognize that the City in its exercise of responsible management, may find it necessary on occasion to make reallocations or shifts of personnel, materials or other resources, to preserve the health, welfare and safety of its citizens.

ARTICLE TWO
CORPORATION DUTIES

2.1 Professional Management. The Corporation will administer the supplemental security and maintenance work programs. The services provided will not relieve or lessen the obligation of private property owners to maintain their property and comply with all applicable laws and regulations.

2.2 Financial Reporting Requirements. All costs incurred or paid by the Corporation pursuant to this Agreement, shall be supported by properly executed payrolls, time records, invoices, vouchers or other documentation, as evidence of the nature and propriety of the charges. All accounting documents pertaining in whole or in part to this

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Agreement shall be clearly identified and readily accessible to the City, and the City shall have the right to audit the records of the Corporation, as they relate to work performed under this Agreement, upon reasonable notice. The Corporation shall also maintain financial records in accordance with State Records Retention Law (chapter 40.14 RCW) for a period of three years after receipt of final payment under this Agreement.

2.3 Maintenance. The Corporation shall hire, supervise and manage a work crew that will be responsible for removing graffiti, sweeping and shoveling sidewalks and crosswalks, cleaning tree wells, cleaning trash containers, cleaning alleys, cleaning windows, and any other general cleanup work, with a goal of promoting a superior level of cleanliness within the BID. The Corporation may subcontract some or all of these duties so long as the Corporation retains the right to terminate such subcontractor in its discretion upon no more than sixty (60) days prior notice.

2.4 Security. The Corporation shall hire, supervise and manage security "ambassadors" to perform services within the BID boundaries, provided, however, that the Corporation may subcontract some or all of these duties so long as the Corporation retains the right to terminate such subcontractor in its discretion upon no more than sixty (60) days prior notice. The Corporation or its subcontractors shall use its best efforts to cause such ambassadors to receive appropriate education and training in security, medical emergencies, available facilities within the BID boundaries, and training emphasizing the importance of establishing and maintaining goodwill with users of the BID. The Corporation may adopt special uniforms for such ambassadors identifiable to the BID and may establish a system of coordination with the City Police Department and private security entities.

ARTICLE THREE
COMPENSATION

3.1 Services Fee. For the twelve month term of this Agreement, as compensation for the services provided hereunder, the City shall pay to the Corporation One Hundred Fifty Thousand and NO/100 Dollars (\$150,000.00). This amount will represent the budget approved by the City Council for the agreed-upon duties set forth in Article II and Exhibit A. For the calendar year 2004, the services fee shall be paid to the Corporation in equal quarterly installments no later than the dates as follows: Execution Date April 15th, July 15th, and October 15th. As used herein "Execution Date" shall mean the earliest date on which authorized representatives of both the Corporation and the City have signed this Agreement.

3.2 Invoices. The Corporation shall send an invoice to the City reflecting amounts to be paid to the Corporation hereunder not less than fourteen (14) days prior to the date each quarterly installment payment is due (except for the initial quarterly installment, for which no quarterly notice is necessary). In the event the due date of any quarterly installment falls on a weekend or a City holiday, the installment shall be due on the next business day of the City.

3.3 Payment. The City reserves the right to withhold payments hereunder pending timely delivery of services, program reports or documents as are required under this Agreement; provided, no such payment will be withheld unless the Office has provided the Corporation, no less than 10 business days before the due date of such payment, written notice of the City's intent to withhold the payment. In the event that the City determines in good faith that any funds provided hereunder to the Corporation were expended by the Corporation for unauthorized or ineligible purposes, or constitute disallowed costs, the Office may demand repayment of such funds in writing. Upon receiving such written demand, the Corporation will have 30 days to repay such funds or to present the Office with a written report showing that the challenged expenditures were

proper. If the Office and the Corporation cannot agree on the propriety of the challenged expenditure, the parties will submit the dispute to an arbitration panel comprised of the Chair and Vice Chair of the Ratepayer Advisory Board created by SMC §4.31.080 and one representative from the Washington State Auditor's Office. Such arbitration panel must render a decision regarding the challenged expenditure, which decision shall be binding on the parties, within 30 days after the panel is convened. In the event the arbitration panel determines the Corporation must remit funds to the City, the Corporation shall do so within thirty (30) days after written notice of such determination is delivered to the Corporation.

ARTICLE FOUR
TERM AND TERMINATION

4.1 Term. The term of the Agreement shall begin on the date first written above and shall end on December 31, 2004.

4.2 Automatic Termination. This Agreement shall terminate automatically if the Corporation ceases to exist (whereupon, the Corporation will be paid compensation for services satisfactorily performed to the termination date).

4.3 Permissive Termination. This Agreement may be terminated by the Corporation upon thirty (30) days written notice to the City in the event the Corporation is unable to provide the full service required under this contract. The Corporation shall repay to the City any funds in the possession of the Corporation at the time of termination of this Agreement that may be due and payable to the City under this Agreement.

4.4 Termination for Cause. Either party may terminate this Agreement for cause upon giving the other party thirty (30) days written notice of such termination. As used herein, "cause" shall mean (i) the breach of any material term or condition hereof, (ii) an unlawful act or unlawful failure to act relating to the subject matter hereof, or (iii)

the use of funds in any material amount for a purpose not authorized in the applicable work program and budget. Notwithstanding the foregoing, a party may terminate this Agreement for a breach of a material term or condition only if such breach remains uncured for a period of thirty (30) days after written notice thereof by such party.

ARTICLE FIVE
QUALITY OF PERFORMANCE

5.1 Performance. The City shall judge in good faith the adequacy and efficacy of work performed, the sufficiency of records and the services delivered. If during the course of this Agreement, the services rendered do not meet the desired results of the City, the Corporation shall correct, modify and/or properly perform the services to the satisfaction of the City.

5.2 Indemnity/Hold Harmless. The City shall hold harmless, indemnify and defend the Corporation from all claims, damages and expenses not directly arising out of or resulting from any willful or negligent act or omission of the Corporation or any of its agents, officers or employees performing work under this Agreement. The Corporation shall hold harmless, indemnify and defend the City from all claims, damages and expenses directly arising out of or resulting from any willful or negligent act or omission of the City or any of its agents, officers or employees performing work under this Agreement.

5.3 Insurance. The Corporation shall maintain at all times, a public liability insurance policy, naming the City as an additional insured, protecting and holding the City harmless from all claims, damages and expenses arising out of or resulting from any negligent act or omissions of the Corporation or any of its agents, officers or employees performing work under this Agreement. Such policy shall provide coverage primary to any insurance maintained by the City, in at least the principal amount of \$1,000,000.00

combined single limit occurrence. Upon written request by the City, the Corporation shall provide a certificate of insurance or a duplicate of the policy as evidence of the insurance protection afforded.

ARTICLE SIX
MISCELLANEOUS

6.1 Parties-In-Interest and Assignment. This Agreement is binding upon and is for the benefit of the parties hereto and their respective successors and assigns, and no person who is not a party hereto shall have any rights under this Agreement, either as a third party beneficiary or otherwise. Neither party may assign this Agreement without the prior written consent of the other party.

6.2 Notices. Any notice, document, report or other communication required or permitted hereunder shall be in writing and shall be delivered personally or by regular U.S. mail, postage prepaid, addressed as follows:

If to City: Mayor's Office
City of Spokane
Fifth Floor Municipal Building
808 West Spokane Falls Boulevard
Spokane, WA 99201-3303
Attention: Mayor

If to Corporation: Downtown Spokane Partnership
211 North Wall Street, Suite 300
Spokane, WA 99201
Attention: President

or to such other person or address as any such party may designate by written notice as provided in this Section 5.2. Any notice or other document or report hereunder shall be deemed delivered or given as of the date received, if delivered in person, or as of the date sent if mailed.

6.3 Entire Agreement. This Agreement supersedes any and all prior oral or written agreements and understandings relating to the subject matter hereof and contains the entire agreement of the parties relating to the subject matter hereof. This Agreement does not supercede the BID Administration and Operations Agreement executed by the parties on the date hereof. All exhibits, addenda, schedules and appendices hereto, now or hereafter created, are incorporated into this Agreement by reference and made a part hereof. The terms "hereof," "herein" and like words shall refer to this Agreement in its entirety and shall include such exhibits, addenda, schedules and appendices. This Agreement cannot be amended or modified, except by a written agreement executed by the parties hereto or their respective successors and assigns.

6.4 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington. A finding that any term or provision of this Agreement is invalid or unenforceable shall not affect the validity or enforceability of the remainder of this Agreement.

6.5 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Corporation has executed the same through its duly authorized representative, and the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, all as of the day and year first written above.

DOWNTOWN SPOKANE DEVELOPMENT
ASSOCIATION, INC.,
a Washington nonprofit corporation

By *Michael Edwards*
Michael Edwards, President

CITY OF SPOKANE
a municipal corporation

By *David J. ...*
Mayor

ATTEST:

Leri ...
City Clerk



APPROVED AS TO FORM:

Michael Penolo
Assistant City Attorney

EXHIBIT "A"

Scope of Services

Security Ambassadors

Duties, Purpose, and Responsibilities

The Security Ambassadors will serve as a uniformed street presence in the Downtown area. The Ambassadors will patrol all areas of the BID on foot or on bicycle during a day and/or early evening shift, including scheduled late evening deployment. The Ambassadors will provide information and assistance to citizens, visitors, and the Police Department. Their function is not crime control or law enforcement. The Ambassadors are to observe and report on disorder problems. The Ambassadors will use their best efforts to maintain radio contact with each other and police dispatch.

The Corporation will provide a Supervisor and between four to six Ambassadors to patrol a specific area based on need, special events, foot traffic, or other factors. The number of Ambassadors in service may be reduced during the winter months and increased again to full strength when tourism and activity dictates greater need for their street-level service.

All Ambassadors must be licensed security personnel with training in medical emergencies and handling of hostile or uncivil individuals. In addition, the Ambassadors are expected to receive special customer service training and orientation to Downtown buildings and tourist sites. Weekly briefings will be scheduled to keep the Ambassadors current on Downtown activities. Routine deployment will be six days per week from 11:30 A.M. to 7:30 P.M.

Each of the Security Ambassadors is expected to walk an average of 15-20 miles a day as they circulate on downtown streets. Their constant presence and routine appearances throughout downtown is intended to reinforce and ensure an atmosphere of public safety for both employees and visitors. As a result of addressing incidents of disorderly conduct, it is expected that the Security Ambassadors will reduce the public misperception that downtown is unsafe.

In addition, Security Ambassadors routinely have addressed different types of disorderly conduct which, while not directly dangerous, can be perceived as intimidating to employees and visitors downtown. Each month, the Ambassadors have averaged 170 contacts with panhandlers, 200 contacts with skateboarders and bicyclists on the sidewalk and 400 contacts with individuals who are publicly intoxicated. Intervention at the time of the incident has provided opportunities to immediately inform citizens of relevant laws, built relationships with street populations to further delivery of relevant services, discouraged future disorderly behavior and provided a unique communication link to those groups of people involved in such activities.

Security Ambassadors are expected to be familiar with staff at social service agencies providing specialized care and treatment services to local populations at risk. By developing rapport and trust over time with individuals, it is anticipated that the Ambassadors can, via radio if necessary, immediately refer them to appropriate care providers such as detox units or identify other providers for future support.

Clean Team

The primary role of the Clean Team will be the daily removal of litter and trash from sidewalks, sweeping and/or shoveling of sidewalks and crosswalks, cleaning of tree wells and planter boxes, emptying of trash containers, removal of litter in the first 10 to 15 feet of alley ways, removal and/or painting over of graffiti, and any other general cleanup work.

Budget Summary

Security Ambassador Program	\$100,000.00
Clean Team Program	<u>\$ 50,000.00</u>
Total Subcontractor Costs	\$150,000.00

Funds from this Agreement will be used for costs associated with salaries and benefits for the Ambassadors and the Clean Team Officer. BID assessment income paid to the Corporation will fund all staff, equipment, supplies, and operations center costs. The Corporation's Operations Director will oversee the activities of both the Clean Team and Security Ambassadors, and provide guidance in deploying resources and maintaining goodwill within the BID.