



PURCHASING DEPARTMENT

County Of Hidalgo

May 16, 2007

Ms. Laurel Powell, Executive Director
Humane Society of the Upper Valley
2501 W. Trenton Road
Edinburg, Texas 78539

Re: "Animal Disaster Emergency Plan" Information
C-05-098-05-24

Dear Ms. Powell,

I am remitting for your review and approval based on the "Second Amended And Restated Agreement" for the above-referenced contract, additional information that the County Of Hidalgo is requesting to see if Humane Society of the Upper Valley will agree and approve to in order for Hidalgo County to be prepared with an "Animal Disaster Emergency Plan".

According to the Second Amended Agreement-Page 4-letter n, it states that The Humane Society and the County agree to cooperate in developing an Animal Disaster Emergency Plan in a timely manner at no additional cost to the County and which shall be fully incorporated into this Agreement after approval by Commissioners Court and the Humane Society's Board of Directors.

The County approved of the "Animal Disaster Emergency Plan" that will be incorporated into the current Agreement, thus, at this time, I am asking for your review and approval in order to request for "Humane Society of the Upper Valley" to approve the renewal/extension of this "Agreement" for additional one (1) year term, under the same rate, terms and conditions including the incorporation of the "Animal Disaster Emergency Plan".

Please remit your response as soon as possible for the current agreement is due to expire on May 24, 2007, thus, making possible to renew/extend the additional one (1) year term.

Please sign below if in agreement with approval of the incorporation of the "Animal Disaster Emergency Plan" and the renewal/extension of one (1) year option. I thank you for your cooperation and if you have any questions, please call me. Thank you.

Approval of the "Animal Disaster Emergency Plan" & One (1) Year Option To
Renew/Extend YES NO

Laurel Powell, Executive Director 05-29-07
Authorized Signature/Title Date

Sincerely,

Vangie Y. Garcia
Vangie Y. Garcia, Buyer II
Hidalgo County Purchasing Department

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Hidalgo

STATE OF TEXAS §
COUNTY OF HIDALGO §

COPY

**SECOND AMENDED AND RESTATED AGREEMENT
BETWEEN THE HUMANE SOCIETY OF THE UPPER VALLEY,
HIDALGO COUNTY CHAPTER CORPORATION AND HIDALGO COUNTY**

WHEREAS, the Humane Society of the Upper Valley, Hidalgo County Chapter Corporation (the "Humane Society") and County of Hidalgo (the "County") entered an Agreement on May 24, 2005 for the provision of services through May 24, 2007;

WHEREAS, due to unforeseen circumstances, the Humane Society and the County found it necessary to amend the Agreement on August 9, 2005 in which the County agreed to increase the amount paid to the Humane Society each year for the services rendered; and

WHEREAS, the parties further find the need to amend the Agreement and as such have agreed it is in the best interest of both parties to amend and restate the entire Agreement.

NOW THEREFORE, for and in consideration of the tasks performed by the Humane Society on the County's behalf and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, and the mutually agreed amendments to the Agreement, the Humane Society and the County hereby agree to the following amendments and restate the Agreement to read as follows:

**AGREEMENT BETWEEN THE HUMANE SOCIETY
OF THE UPPER VALLEY, HIDALGO COUNTY CHAPTER CORPORATION
AND HIDALGO COUNTY**

THIS AGREEMENT (the "Agreement") is made on this the 02nd day of May 2006, by and between the **HUMANE SOCIETY OF THE UPPER VALLEY, HIDALGO COUNTY CHAPTER CORPORATION**, a non-profit corporation organized under the laws of the State of Texas, hereafter referred to as the "Humane Society" and the **COUNTY OF HIDALGO**, hereinafter referred to as the "County" as follows:

WITNESSETH:

WHEREAS, pursuant to Section 826.016 of the Texas Health & Safety Code ("THSC"), the Commissioners Court is authorized to enter into this agreement (the "Agreement") with the Humane Society to carry out the activities required or authorized under THSC Chapter 826;

WHEREAS, the County has the responsibility and duty to provide a location for the impoundment and quarantine of animals that are reported to be or which the County has probable cause to believe are rabid or have exposed an individual to rabies;

WHEREAS, the County does not have the facilities to impound or quarantine animals and desires to contract with the Humane Society which has an adequate facility located at 2501 W. Trenton, Edinburg, Texas, suitable for the impounding, quarantining and observing of animals in accordance with State law;

WHEREAS, the Humane Society submitted a proposal to the County in which it offered to provide a facility to impound, quarantine and observe animals. These facilities, as proposed are also suitable for testing animals and for conducting humane euthanasia. The Humane Society also proposed a plan for the proper disposition of animals when necessary and has also offered to provide the facilities necessary for these purposes for County Animal Control Officers and residents from the unincorporated areas of Hidalgo County who desire to bring unwanted and stray animals to their facilities; and

WHEREAS, the Humane Society proposes to provide the services required by THSC Chapter 826 and any and all rules and regulations adopted by the County related to animal control.

NOW, THEREFORE, the County and the Humane Society for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, do hereby contract, covenant and agree as follows:

1) Definitions:

"Animal" means warm-blooded animals that are impounded at the facility either by County authorities or by a person outside of the corporate limits of municipalities of Hidalgo County.

"Animal Shelter" means a facility that keeps or legally impounds stray, homeless, abandoned or unwanted animals pursuant to THSC Chapter 823.

- 2) The Humane Society agrees to provide an adequate animal shelter regulated by and complying with all standards prescribed by Chapters 823 and 826 of the THSC.
- 3) The Humane Society's facility shall be for the impoundment, quarantine or observation of Animals and for the humane euthanasia as required. The facility shall also serve as a place for stray and/or abandoned Animals throughout the term of this Agreement under the provisions set forth herein.
- 4) **Term.** The term of this Agreement shall be from Jan 01, 2006 through December 31, 2006 (the "Initial Term").
- 5) **Option to Renew.** Upon expiration of the Initial Term, the County is granted the option to renew this Agreement for one (1) additional one (1) year term, under the same terms and conditions so long as the level of services provided by the Humane Society remain substantially the same. The County shall give the Humane Society written notice of its intent to exercise its renewal option at least sixty (60) days prior to the expiration of the initial term.
- 6) The Humane Society agrees to provide the following services or to comply with the following terms of this Agreement:
 - a. The Humane Society agrees to provide facilities that are licensed by the Texas Department of Health to operate as a place where legal and healthful impounding or quarantining of Animals may occur.
 - b. The Humane Society agrees to provide the services required by THSC Chapter 826 and any and all rules and regulations adopted by the County related to animal control;
 - c. The Humane Society agrees to provide adequate food, water, shelter, confinement and when situations warrant, humane euthanasia for impounded and quarantined Animals.
 - d. The Humane Society agrees to properly dispose of all dead animals.
 - e. The Humane Society agrees to impound or place in quarantine at its facility, all Animals required or requested to be impounded or quarantined by the authority and direction of the County Medical Officer, County Health Department Director, and/or any County designated person charged with the enforcement of THSC Chapters 823 and 826 or other State or County regulations related to Animal control.

- f. The Humane Society agrees to accept Animals for impoundment or quarantine that are brought by County Animal Control Officers and by persons who reside outside of the corporate limits of any municipality in Hidalgo County. At all times, the Humane Society shall make the necessary arrangements to house or provide for such animals.
- g. The Humane Society agrees to accept Animals at the facilities 24 hours a day, seven days a week – unless 48 hours notice is given to the County prior to any change of such hours of operation. Emergency closing of the facility may be necessary and applicable reasons shall be enumerated in the Force Majeure Clause of this Agreement.
- h. The Humane Society agrees to use its best efforts to reunite pet owners with impounded Animals.
- i. The Humane Society shall attempt to secure adoptive homes for all unclaimed Animals and shall be required to comply with sterilization requirements of THSC Chapter 828.
- j. The Humane Society agrees to provide clinics which provide rabies vaccination of pet animals at a reduced cost to County residents. Such vaccination programs will be provided at County-owned facilities. To the extent permitted by law, the Humane Society shall indemnify the County from all liability in conducting such clinics.
- k. The Humane Society agrees to assist the County when requested in investigating animal cruelty.
- l. The Humane Society agrees to provide all laboratory testing of any Animal that becomes ill or expires during rabies quarantine, including but not limited to shipping such animal to a facility designated and licensed by the Texas Department of Health.
- m. The Humane Society agrees to provide for and bear all costs for the preparation and shipment of any Animal to the Texas Department of Health for laboratory testing.
- n. The Humane Society and County agree to cooperate in developing an Animal Disaster Emergency Plan in a timely manner at no additional cost to the County and which shall be fully incorporated into this Agreement after approval by Commissioners Court and the Humane Society's Board of Directors.

shall be due monthly in equal installments of Sixteen Thousand Six Hundred and Sixty-six Dollars and Sixty-seven cents (\$16,666.67).

- b. County designates the Medical Officer and/or Director of the Hidalgo County Health Department (the "Director") as the person responsible for the enforcement of THSC Chapter 826 and the impounding and quarantine of Animals. The Director shall act as the rabies health authority for the County and shall act as liaison between the County and the Humane Society at all times when the members of the County Commissioners Court are not available or upon direction of the Commissioners Court.
 - c. County shall require impoundment and quarantine of all Animals that have bitten or that are suspected to have bitten a human or other Animal outside or inside the facility for a period of not less than ten (10) days. During this time, the Animal shall be monitored by the Humane Society for symptoms of rabies. The Director or his designee shall inspect such Animals on the first and last day of said period of impoundment or quarantine. In no event shall the Humane Society release any Animal from such observation until instructed to do so in writing by the Director or his designee.
 - d. Hidalgo County shall appoint an Advisory Committee as required by THSC Section 823.005 to assist the County in complying with THSC Chapter 823 and 826. The Advisory Committee shall be composed of at least one licensed veterinarian, one county official, one person whose duties include the daily operation of an animal shelter, and one representative from an animal welfare organization.
- 8) Residents of Hidalgo County shall be authorized to surrender Animals directly to the Humane Society. Such Animals may be placed for adoption or humanely euthanized by the Humane Society in accordance with this Agreement.
- 9) **Force Majeure.** Neither the County nor the Humane Society shall be required to perform any act, term, condition or covenant in this Agreement so long as such performance is delayed or prevented by force majeure (acts of God), strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, fire, windstorm or any other cause not reasonably in the control of the County or Contractor any, which by the exercise of due diligence, County or the Humane Society is wholly or in part unable to overcome.
- 10) **Notice.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written

receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to County: Hidalgo County
County Judge Ramon Garcia
100 E. Cano
Edinburg, Texas 78539

If to Humane Society: Humane Society of the Upper Valley
2501 W. Trenton Road
Edinburg, Texas 78539

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

- 11) **The Humane Society shall indemnify and hold harmless the County against all claims, demands, costs, or fees, including but not limited to attorneys fees arising from conduct or management of business in or on the Humane Society's premises and from any act of conduct, management of business or negligence by the Humane Society or its employees or agents.**
- 12) **Texas Law to Apply.** 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 Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.
- 13) **Conflict with Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.
- 14) **No Waiver.** No waiver by any party hereto of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

- 15) **Entire Agreement.** This Agreement contains the entire contract among the parties hereto, and each party acknowledges that no other party has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by County and Humane Society and not otherwise.
- 16) **Commitment of Current Revenues Only.** In the event that, during any term hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then any party may terminate this Agreement upon sixty (60) days written notice to the other party. Each of the parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. § 271.903.
- 17) **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.
- 18) **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
- 19) **Assignment.** This Agreement shall not be assignable.
- 20) **Headings.** The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.
- 21) **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.
- 22) **Authority to Execute.** The execution and performance of this Agreement by each of the parties hereto have been duly authorized by all necessary laws, resolutions, ordinances or governing body action, and this Agreement constitutes the valid and enforceable obligations of the parties hereto in accordance with its terms.

WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written above.

HUMANE SOCIETY OF THE UPPER VALLEY

By: *Thomas Powell*
Its: Executive Director

HIDALGO COUNTY

By: *Ramon Garcia*
Ramon Garcia, County Judge

ATTEST:

Eddy Trevino
Eddy Trevino, Acting County Clerk

APPROVED BY
COMMISSIONERS' COURT

N: MAY - 2 2006

APPROVED AS TO FORM:

ATLAS & HALL, L.L.P.

By: *S.L. Crain*
Stephen L. Crain

Ms. Powell, the following is the additional information that the County of Hidalgo is requesting to be incorporated in the "Second Amended And Restated Agreement" between the County Of Hidalgo and Humane Society Of The Upper Valley. Please review and refer to the letter that I'm faxing also. Thank you.

"In event of an "Emergency Disaster" relating to the evacuation and sheltering of services animals and household pets, will cooperate with County in developing an "Animal Disaster Emergency Plan" in a timely a manner at no additional cost to the County in accordance with "Government Code-Section 418.043 (11)-Develop plans for the humane evacuation, transport, and temporary sheltering of "**Service Animals**" and "**Household Pets**" in a disaster as required by Sub-Chapter I and in compliance with applicable federal law;

"Government Code-Section 418.201"-Definition of this Section Code;

(1)"Household pet" means a domesticated cat or dog or other animal normally maintained in the home or on the property of either the owner or the caretaker of the animal. The does not include livestock as defined by Section 1.003, Agriculture Code.

(2)"Service Animal" has the meaning assigned for the purposes of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et. Seq.).

"Government Code-Section 418.202"-Evacuation Of Service Animals. Plans developed under Section 418.043(11) must require that:

(1) a person with a disability who uses a service animal be evacuated, transported, and sheltered with that service animal; and

(2)all shelters be informed of the obligation to provide shelter to both the person and the person's service animal.

"Government Code-Section 418.203"-Evacuation Of Household Pets. (a)Plans developed under Section 418.043 (11) must permit:

(1) the simultaneous evacuation of a household pet and the pet's owner or caretaker, if the evacuation can be made without endangering human life; and

(2) the transportation of a household pet using public transportation if:

(A) the pet is safely and securely confined in a cage or carrier designed for pet transport; and

(B) transportation of the pet will not endanger human life

(b) The division shall coordinate the establishment of an identification system to enable the owner or caretaker of a household pet who is separated from the pet during a disaster evacuation to locate and reclaim the pet."