Agenda – Council – September 30, 2009

Report – Standing Policy Committee on Protection and Community Services – September 14, 2009

Item No. 2 Service Agreement between the City of Winnipeg and the Winnipeg Humane Society
eFile GL-5.6.1

STANDING COMMITTEE RECOMMENDATION:

On September 23, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and submits the following to Council:

1. That the Service Agreement between the City of Winnipeg and the Winnipeg Humane Society be approved for the period January 1, 2009 to December 31, 2010, in the amounts of $275,000 for provisions of general animal welfare services and up to $75,000 for provision of a subsidized cat spay and neuter program for 2009 and 2010.

2. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

Report – Standing Policy Committee on Protection and Community Services – September 14, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 23, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection and Community Services and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 14, 2009, the Standing Policy Committee on Protection and Community Services concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

ISSUE: Service Agreement between the City of Winnipeg and the Winnipeg Humane Society

Critical Path: Standing Policy Committee on Protection and Community Services `– EPC - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
T. Dack	Original signed by C. Wightman	M. Ruta	Alex Robinson, Deputy CAO

RECOMMENDATIONS

1. That Council approve the attached Service Agreement between the City of Winnipeg and the Winnipeg Humane Society for the period January 1, 2009 – December 31, 2010, in the amounts of $275,000 for provisions of general animal welfare services and up to $75,000 for provision of a subsidized cat spay and neuter program for 2009 and 2010.

2. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement the intent of the foregoing.

IMPLICATIONS OF THE RECOMMENDATIONS

- The 2009 – 2011 Selection Report for the Animal Services Agency included a grant to the Winnipeg Humane Society at this $350,000 level.

- The proposed agreement is for the period January 1, 2009 to December 31, 2010.

HISTORY

- The City of Winnipeg had a three year service agreement with the Winnipeg Humane Society to provide general and specific animal welfare services to the citizens of the City of Winnipeg.

- This previous service agreement expired on December 31, 2008.
- The services included but were not necessarily limited to; providing shelter and care for surrendered animals, emergency pick-up of injured animals, kenneling of cats trapped pursuant to the City of Winnipeg Pound By-law, etc. The City of Winnipeg paid the Winnipeg Humane Society $200,000/year to provide these services.
- In the previous agreement in addition to general services, the City of Winnipeg agreed to provide a subsidy up to a maximum of $50,000 per year to the Winnipeg Humane Society for provision a low-cost cat spay and neuter program over and above any current programs being offered by the Society.
- In 2008 the Winnipeg Humane Society handled 9,293 animals (1723 dogs, 5,870 cats, 1298 wildlife, and 402 other).
- In 2008 the Society provided 2,500 subsidized cat spay and neuter procedures, targeting mostly lower income neighbourhoods.
- The City of Winnipeg and the Winnipeg Humane Society have tentatively agreed to renew the previous service agreement for a two year period ending December 31, 2010 including increasing the costs for general services to $275,000 and the cat spay and neuter subsidy to $75,000.
- Funding exists in the Animal Services Agency budget.
- A draft agreement is attached as Appendix 1

FINANCIAL IMPACT

Financial Impact Statement **Date:** June 24, 2009

Project Name: Service Agreement **First Year of Program** **2009**

	2009	2010	2011	2012	2013
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 350,000	$ 350,000	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ 350,000	$ 350,000	$ -	$ -	$ -
Less: Existing Budget Amounts	350,000	350,000	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: The 2009 – 2011 Selection Report for the Animal Services Agency included a grant to the Winnipeg Humane Society at this $350,000 level. The proposed agreement is for the period January 1, 2009 to December 31, 2010.

original signed by: Cindy Fernandes
Department Controller

CONSULTATION

In preparing this Report there was consultation with:

- **City of Winnipeg, Legal Services**
- **The Winnipeg Humane Society**

SUBMITTED BY

Department: Community Services
Division: Animal Services Agency
Prepared by: Tim Dack
Date: July 16, 2009
File No.

Appendix 1 Draft Agreement



Animal Services\dft agreement cow and

APPENDIX A:

THIS AGREEMENT made in duplicate this day of A.D. 2009.

BETWEEN:

THE CITY OF WINNIPEG,
(hereinafter referred to as "the City"),
OF THE FIRST PART,

- and -

THE WINNIPEG HUMANE SOCIETY,
(hereinafter referred to as "the Society"),
OF THE SECOND PART.

WHEREAS the Society has agreed to provide certain services to the City concerning the care and sheltering of animals;

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

1. Subject to clause 12 hereof, the term of this Agreement shall commence January 1, 2009 and terminate on December 31, 2010, except that Clause (h) of Subsection 2(2) and Sections 14 and 15 shall survive the termination of this Agreement.

2. (1) The Society acknowledges and agrees that it will provide the following general services and all those related thereto:

General Services, including but not limited to:

(a) Emergency pick-up of all injured animals throughout the City;
(b) Inspections and investigations regarding cruel or inhumane treatment of animals throughout the City;
(c) Provision of adequate and appropriate shelter and care for unwanted animals throughout the City of Winnipeg;
(d) Provide assistance to any City Department as requested in removing any cats from any premises and to provide all necessary and appropriate kennelling and care for said cats;
(e) Disposal of unclaimed animals either through an adoption process or euthanasia (including cremation);
(f) Providing responsible pet ownership education, including the benefits of a pet being spayed or neutered;

DRAFT

(g) Provide to the City an annual report and audited financial statement by June 1, 2009 and each year thereafter for the prior year;

(2) The Society further agrees that it shall provide the following specific services pertaining to impounded cats and dogs and all services related thereto:

(a) Provide an owner-subsidized spay and neuter program for cats. The Society shall provide to the City a monthly list of all procedures performed, which list shall include the owner's name and address and a description of the cat;

(b) Accept and provide all necessary and appropriate kennelling and care for all impounded or trapped cats;

(c) Maintain a registry of all animals impounded pursuant to the City's Pound By-law, separate and apart from other animals held at the Society;

(d) Remit monthly to the City's Animal Services Agency all impoundment, kennel and license fees collected under the said Pound By-law from pet owners claiming their dog or cat;

(e) Submit monthly to the City's Animal Services Agency all relevant documentation pertaining to all impounded dogs or cats;

(f) Examine each animal upon its arrival for tattoos, micro-chips, tags or other identifiers;

(g) Contact owners, however identified, and inform them that their animal is at the Society;

(h) Not release any animal that has been impounded without collecting the appropriate license fee and issuing the necessary tag.

3. Provided that the Society complies in full with clause (a) of subsection 2(2), the City agrees that it will pay the Society the sum of the sum of TWENTY DOLLARS ($20.00) per spay or neuter procedure performed on each cat under clause 2(2)(a), to a maximum of SEVENTY-FIVE THOUSAND DOLLARS ($75,000) per year, to be paid in monthly instalments following the submission of the list referred to in clause 2(2)(a).

4. In addition to the payment referred to in section 3, and subject to the Society complying in all respects with the terms of this Agreement, the City agrees that it shall pay to the Society the sum of TWO HUNDRED THOUSAND SEVENTY-FIVE THOUSAND DOLLARS ($275,000) per year, payable in equal quarterly installments.

5. The Society agrees that it is an independent contractor and that it is not the

agent or servant of the City and that the City is not the employer of the Society or any of its agents, servants or employees.

6. The Society shall not assign the whole or any part of this Agreement, or the work performed pursuant thereto, without the written consent of the City's Chief Operating Officer of Animal Services.

7. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

8. The Society shall assume all risk of loss and damage of any kind and hereby undertakes to indemnify and keep indemnified the City from and against all claims, actions or proceedings for loss, injury, damages or compensation by any person, firm or corporation, whether to real or personal property, wheresoever situated, or by any person whomever (including the Society, or any member, employee, agent, licensee, invitee, tenant or third party whether claiming through or under the Society or otherwise) caused by reason of or in any way attributable to any breach by the Society of any of its obligations under this Agreement or any failure by the Society to perform any of its obligations under this Agreement; it being understood and agreed that in case any such claim, action, suit or demand be brought or made against the City, the City shall give the Society notice thereof and if the Society does not within ten (10) days thereafter notify the City that the Society will assume conduct of the matter, the City may, if it sees fit, compromise such claim, action, suit or demand. If the Society notifies the City within the said ten (10) days that it will be assuming conduct of the matter, then the Society shall have, at its sole expense, conduct of the matter. The Society shall pay to the City on demand the sum or sums paid in settlement of any such claim, action, suit or demand, together with all other costs and expenses howsoever arising in connection therewith, including such as shall represent the reasonable value of any service rendered by the City Solicitor charged on the same basis as if the said Solicitor were not receiving a salary or remuneration from the City, but was a private practitioner; provided, however, that if the Society has conduct of the matter no amount shall be payable by the Society to the City unless the society has consented to the settlement of the matter.

9. To further safeguard the City, the Society shall provide and maintain the following insurance coverage:

- commercial general liability insurance, in the amount of at least two million dollars ($2,000,000.00) inclusive, with the City of Winnipeg

added as an additional insured; such liability policy to also contain a cross-liability clause, contractual liability and products and completed operations cover, to remain in place at all times during the duration of the Agreement;

- automobile liability insurance for owned and non-owned automobiles used for or in connection with the performance of the Services in the amount of at least two million dollars ($2,000,000.00), to remain in place at all times during the duration of the Agreement; such insurance may be met through the commercial general liability cover where applicable;
- All policies of insurance shall be taken out with insurers licensed to and carrying on business in the Province of Manitoba;
- Deductibles shall be borne by the Society;
- The Society shall not cancel, or cause any such policy or policies to lapse without a minimum thirty (30) days prior written notice to the City;
- The Society shall provide written notice to the City of Winnipeg of any material changes to their policies within thirty (30) days of the change taking effect;
- The Society shall file with the City an annual Certificate of Insurance in a form satisfactory to the City Solicitor;
- The City shall have the right to alter the limits and/or coverages as reasonably required from time to time during the continuance of this Agreement and for any subsequent renewals thereof, provided that the City shall give the Society reasonable notice and shall request reasonable change.

10. The Society shall be solely responsible for all costs, charges, expenses, liabilities and obligations incurred or occasioned under or by virtue of this Agreement.

11. The Society shall provide, at its sole and exclusive expense, all necessary supplies, personnel, equipment and transportation to perform its obligations under this Agreement.

12. This Agreement is subject to City Council approving the necessary funds in its budget in each year.

13. This Agreement may be terminated by the City's Director of Community Services for cause without notice and without compensation. In addition,

either the City's Director of Community Services or the Society may terminate this Agreement for any or no reason and without compensation upon 90 days notice in writing sent by mail to the other party as follows:

The Winnipeg Humane Society
45 Hurst Way
Winnipeg, Manitoba
R3T 0R3

and to:

The Director
Community Services Department
395 Main Street
Winnipeg MB R3B 3N8

which notice shall be deemed to be received two days after it is mailed. In the event this Agreement is terminated, the Society shall only receive such sum as is due and owing on the date of such termination as calculated on a per diem basis.

14. At the termination of this Agreement, the Society shall turn over to the City all correspondence, reports, studies, data and other records and all other property belonging to the City.

15. The Society shall not, either during the performance of its duties or at any time thereafter, disclose to any person, firm or corporation any information concerning the business, financial or other affairs of the City which it may have acquired in the course of or incidental to the performance of its duties hereunder or otherwise, whether for its own benefit, or to its detriment, or intended or probable detriment of the City. Any and all such information shall be kept confidential and shall not in any manner be revealed to anyone without the written approval of the City's Chief Operating Officer of Animal Services.

16. During the term of this Agreement, representatives of the City shall be granted access to the premises of the Society without restriction during any hours the said premises are open.

17. This Agreement constitutes and expresses the whole agreement of the parties hereto and with reference to any of the matters or things herein provided for, or hereinbefore discussed or mentioned, whether oral or written, with reference to such engagement, all promises, representations and

undertakings relative thereto being merged herein.

18. This Agreement shall be construed, performed and enforced according to the laws of the Province of Manitoba.

THE CITY OF WINNIPEG

_____
Mayor

_____
City Clerk

SIGNED, SEALED & DELIVERED in the presence of:)

_____
WITNESS

THE WINNIPEG HUMANE SOCIETY

_____
(signature)

_____
(name printed)

_____
(position)

Approved as to content & details:

_____
Chief Operating Officer
Animal Services Agency

Certified as to form:

_____
for City Solicitor/
Manager of Legal Services