

PUBLIC SAFETY COMMITTEE

13-0157R

RESOLUTION AUTHORIZING CITY OFFICIALS TO ENTER INTO AN AGREEMENT WITH THE ANIMAL ALLIES HUMANE SOCIETY FOR THE OPERATION OF AN ADOPTION PROGRAM WITHIN THE CITY OF DULUTH.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Animal Allies Humane Society, substantially in the form of that on file in the office of the city clerk as Public Document No. \_\_\_\_\_, for the operation of an adoption program within the city of Duluth.

Approved:

  
\_\_\_\_\_  
Department Director

Approved for presentation to council:

  
\_\_\_\_\_  
Chief Administrative Officer

Approved as to form:

  
\_\_\_\_\_  
Attorney

Approved:

  
\_\_\_\_\_  
Auditor

ATTY/DPD TLL:db 03/21/2013

STATEMENT OF PURPOSE: This resolution authorizes the proper city officials to enter into an agreement with Animal Allies Humane Society for the continuing operation of an adoption program. Animal Allies has been operating the program out of their facility for a number of years. This agreement is a renewal of a previous agreement between the parties that was executed in 2009.

**AGREEMENT BETWEEN THE CITY OF DULUTH AND ANIMAL ALLIES  
HUMANE SOCIETY FOR THE INTAKE, CARE, TRANSFER, AND  
ADOPTION OF HOMELESS PETS**

THIS AGREEMENT is by and between the **CITY OF DULUTH**, a city organized under the State of Minnesota (hereinafter, the "City") and **ANIMAL ALLIES HUMANE SOCIETY**, a 501(c)(3) nonprofit corporation organized and existing in good standing under the laws of the State of Minnesota (hereinafter, "AAHS"). This Agreement supersedes any other agreement between the parties and all such earlier agreements shall be terminated upon approval and execution of this Agreement.

**WITNESSETH:**

WHEREAS, the City carries out animal care and control activities pursuant to state law and City ordinance; and

WHEREAS, AAHS is a nonprofit humane society that owns and operates an animal shelter located at 4006 Airport Road in Duluth and strives to ensure a lifetime of loving care for every pet by reducing overpopulation, increasing adoption, and fostering humane values; and

WHEREAS, AAHS wishes to assume primary responsibility for the adoption of animals impounded by or surrendered to the City; and

WHEREAS, the City and AAHS support the spaying and neutering of pets; and

WHEREAS, the City and AAHS provide humane temporary care for homeless animals; and

WHEREAS, the City and AAHS support saving animal lives by managing the animal population within the City of Duluth Animal Shelter through adoption rather than through euthanasia.

NOW, THEREFORE, the parties hereby agree as follows:

**Article 1.  
Duties of AAHS.**

AAHS will:

- 1) Own and operate an animal shelter within the City of Duluth.
- 2) Serve as the primary agency accepting owner-surrendered dogs and cats within the City of Duluth.
- 3) Accept healthy and treatable dogs and cats offered by the City as space allows. "Healthy" and "treatable" are terms of art and the parties agree to utilize the definitions for these terms as set forth in the standards adopted by Asilomar Accords.

- 4) Promptly respond and take custody of accepted dogs and cats on the next regularly scheduled pick-up day, which must occur at least twice a week (currently Mondays and Thursdays).
- 5) Spay or neuter each animal transferred from the City prior to releasing the animal from the custody of AAHS.

**Article 2.**  
**Duties of City.**

The City will:

- 1) Attempt to classify, according to mutually agreeable standards as outlined and defined by Asilomar Accords, all dogs and cats admitted to the City shelter.
- 2) Offer healthy and treatable dogs and cats, including feral cats, to AAHS for the purpose of adoption.
- 3) Reasonably aid AAHS in the transfer of dogs and cats to AAHS.
- 4) Endeavor to support AAHS in its desired role as the primary agency accepting owner-surrendered dogs and cats within the City except where the City, acting through its Animal Control Officer, finds compelling reasons to accept control of an animal.

**Article 3.**  
**Policies and Procedures.**

The City and AAHS may prepare mutually agreeable policies and procedures to guide their activities in accordance with City Code, state law and AAHS' mission. The policies and procedures may cover areas such as animal care, pre-adoption processes, classification of animals, adoption and any other relevant aspect of the parties' relationship. These policies and procedures are not contractual terms and merely guide the parties' working relationship.

**Article 4.**  
**No Representations or Liability.**

The City makes no representations regarding any animal it transfers to AAHS. AAHS accepts all animals AS IS and is solely liable for the animals upon transfer.

**Article 5.**  
**Term of Agreement.**

Notwithstanding the date of execution of this Agreement, this Agreement shall be deemed to commence on January 1, 2013, and shall continue in effect through December 31, 2014 unless earlier terminated as provided for herein (the "Initial Term"). At the end of the Initial Term, this Agreement may be renewed for four additional one-year terms upon the mutual agreement of the parties. Notice of intent to renew shall be given by either party by written notice at least 30 days

prior to the end of the stated term and written acceptance of the intent to renew shall be given by the receiving party within five business days of receipt of said written notice of intent to renew.

**Article 6.**  
**Independent Contractor Status.**

Nothing contained herein is intended or should be construed in any manner as creating or establishing the relationship of agents, partners, joint ventures or associates between the parties hereto or as constituting AAHS's employees or volunteers as the employee or agent of the City for any purpose or in any manner whatsoever. Both the City and AAHS shall at all times be free to exercise initiative, judgment and discretion as to how to provide their respective services identified herein.

**Article 7.**  
**Waiver.**

The waiver by either party of a breach or violation of any provision of the Agreement will not be deemed a waiver of any subsequent breach of the same or a different provision.

**Article 8.**  
**Notices/Representatives.**

Any notices, questions, or other communications concerning this Agreement shall be directed in writing as follows:

To the City: Robin Roeser Deputy Chief of Police 2030 Arlington Ave Duluth, MN 55811	To AAHS: Rick Sailsted Executive Director 4006 Airport Rd Duluth, MN 55811
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**Article 9.**  
**Termination.**

This Agreement may be terminated with or without cause by either party upon 60 days written notice to the other party.

**Article 10.**  
**Modifications/Addenda.**

Any amendments, alterations, variations, modifications, or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing and signed by the authorized representatives of both the City and AAHS.

**Article 11.**  
**Data Privacy.**

AAHS recognizes that the City is subject to the Minnesota Government Data Practices Act which is codified in Chapter 13 of the Minnesota Statutes. AAHS agrees that all data collected, created, received, maintained or disseminated for any purpose by the Parties because of this Agreement is governed by the Minnesota Data Practices Act.

**Article 12.**  
**Governing Law.**

This Agreement will be governed by, construed and enforced in accordance with the laws of the State of Minnesota.

**Article 13.**  
**Severability.**

The provisions of this Agreement shall be deemed severable. If any part of this agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity or enforceability of the remainder of this Agreement unless the part or parts which are void or otherwise invalid shall substantially impair the value of the entire agreement with respect to either party.

**Article 14.**  
**Final Agreement.**

This Agreement is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon. This Agreement shall supersede all prior negotiations, understandings or agreements. There are no representations, warranties or stipulations, either oral or written, not herein contained.

IN WITNESS WHEREOF, the parties have executed this Agreement intending to be bound hereby.

**CITY OF DULUTH**

**ANIMAL ALLIES HUMANE  
SOCIETY**

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
City Attorney

Countersigned:

\_\_\_\_\_  
City Auditor