

AGREEMENT #CY21-062

THIS AGREEMENT entered into this 17th day of August, 2021, between **NJ HUMANE SOCIETY, CORP. (the "Contractor" or "NJ HUMANE")** having an address at **6412 DEWEY AVENUE, WEST NEW YORK, NEW JERSEY 07093** and the City of Bayonne (the "City"), a municipal corporation, having its principal offices at 630 Avenue C, Bayonne, New Jersey 07002;

WHEREAS, the City of Bayonne is in need of an **Animal Control Officer and Animal Shelter Services** for the period commencing **May 1, 2021** and ending **December 31, 2021**, with two (2) possible one (1) year renewal options, extending the contract period one year each; and

WHEREAS, the City of Bayonne advertised a Request for Qualifications for the aforesaid Animal Control Officer and Animal Shelter Services pursuant to the fair and open contracting provisions set forth in N.J.S.A. 19:44A-20.4 and N.J.S.A. 19:44A-20.5; and

WHEREAS, **NJ HUMANE** has submitted to the City of Bayonne a formal written response to the City's Request for Qualifications/Proposals for said services; and

WHEREAS, **NJ HUMANE**, is qualified, ready, willing and able to provide said services for a contract amount of **\$81,185.76 per year** payable at the rate of **\$6,765.48** per month; and

WHEREAS, the City desires to retain the services of **NJ HUMANE**, for the period commencing **May 1, 2021** and ending **December 31, 2021** payable at the rate of **\$6,765.48 per month** for a total contract amount of **\$54,123.84** for the **eight (8) month period** with two (2) possible one (1) year renewal options, extending the contract period one year each; and

WHEREAS, any subsequent renewals would be based upon an **annual contract amount of \$81,185.76**; and

WHEREAS, this professional services contract was advertised under the Fair & Open Contracting Requirements pursuant to N.J.S.A.19:44A-20.4.5; and

WHEREAS, this contract constitutes a "Professional Service" contract under the provisions of the Local Public Contracts Law because the service is a recognized profession, licensed and regulated by the State of New Jersey, and therefore, may be awarded without competitive bidding pursuant to N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contract Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for "Professional Services" without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, resolution number **21-04-14-088** was adopted by the Municipal Council of the City of Bayonne on **April 14, 2021**, awarding the contract to the Contractor for **Animal Control Officer and Animal Shelter Services**; and

WHEREAS, said resolution calls for a contract commencement date of **May 1, 2021** and an ending date of **December 31, 2021** at a total cost not to exceed **\$54,123.84 payable at the rate of \$6,765.48 per month**; and

NOW, THEREFORE, in consideration of the mutual agreements contained in this agreement and subject to the terms and conditions as stated, it is understood and agreed by the parties, as follows:

A. SCOPE OF SERVICES AND CONTRACTOR'S QUALIFICATIONS

I. Scope of Services

The Contractor shall provide **Animal Control Officer and Animal Shelter Services** for the period commencing **May 1, 2021** and ending **December 31, 2021** pursuant to the City's **Request for Qualifications ("City's RFQ")** and the Contractor's response to the City's RFQ

Request for Qualifications (“City’s RFQ”) and the Contractor’s response to the City’s RFQ dated April 12, 2021 as corrected (“Contractor’s Corrected Response”) on file with the City Clerk. Said **City’s RFQ** and the **Contractor’s Corrected Response** are hereby made part and parcel of this Agreement. In the event of a conflict between the **Contractor’s Corrected Response** and the Municipal Council resolution approving same, the Municipal Council resolution shall control. In the event of a conflict between the **City’s RFQ** and the **Contractor’s Corrected Response**, the **City’s RFQ** shall control. In the event of a conflict between this Agreement and the **Contractor’s Corrected Response**, this Agreement shall control.

II. Contractor’s Qualifications

1. Contractor shall be licensed by the State of New Jersey to provide **Animal Control Officer and Animal Shelter Services** and said licensure(s) shall be in good stead at all times during the term of this contract.

2. Contractor shall, at Contractor’s own expense comply with the following insurance requirements:

a. The Contractor shall be required to carry full insurance including comprehensive general liability; workman’s compensation insurance; which shall cover all operations of the Contractor, its employees, agents and servants hereunder, and; motor vehicle and equipment used by the Contractor in connection with the Contractor’s operations under the Contract; Contractor shall provide professional liability (errors & omissions) insurance for claims arising from any negligent performance of Contractors’ services pursuant to the agreement in the amount of \$1,000,000 per claim. Said insurance, by endorsement, shall fully protect the City from liability.

b. Certificates naming the City as an additional named insured, and evidencing such insurance coverage, shall be filed with the City Clerk prior to the commencement of operations hereunder by the Contractor.

The following Certificates of Insurance must be furnished:

- I. Worker’s Compensation; Part Two – Statutory
- II. Comprehensive General Liability:
 - A. Minimum limits: \$1,000,000.00;
Combined Single Limit Coverage to include:
Premise/ Operations; Independent Contractors;
Product / Completed Operations; Contractual;
Personal Injury; Broad Form Property Damage;
City as additional insured.
 - B. Comprehensive General Liability must be maintained for at least one year after completion of the contract and its acceptance by the City.
- III. Professional Liability Insurance (Errors & Omissions)
 - A. Contractor shall provide professional liability (errors & omissions) insurance for claims arising from any negligent performance of contractors’ services pursuant to the agreement in the amount of \$1,000,000 per claim.

The certificate(s) of insurance shall designate the City as an additional insured and shall contain a thirty (30) day notice of cancellation whereby the City Clerk will be provided with a written notification of cancellation. Said insurance must be paid for a minimum of six (6) months into the contract period at the time of the contract.

3. The Contractor agrees to indemnify and hold harmless the City, the Board of Commissioners of the City, and all of its officers, agents and employees of and from any and all liability for damages for injury to person and property, including death and against and from all suits and actions and all costs, damages and charge of whatsoever kind of nature, including attorneys' fees to which the City maybe put for or on account of any injury or alleged injury to person, including death, or property, resulting from the performance of the Contractor's operations under this Contract, or by or in consequence of any neglect or omission on the part of the Contractor in the performance of operations under the Contract, whether such operations, or in the absence thereof, be by the Contractor or anyone directly or indirectly employed by the Contractor. The Contractor shall hold the City harmless for damages to the Contractor's equipment utilized during the term of this Contract.

B. COMPENSATION AND TIME OF PERFORMANCE

1. The Contractor does hereby agree to furnish the services of its partners, associates and staff, whenever necessary and to the best of their ability in such manner as to serve the best interests of the City and perform the aforementioned **Animal Control Officer and Animal Shelter Services** for the period commencing **May 1, 2021** and ending **December 31, 2021**, pursuant to the **City's RFQ and Contractor's Corrected Response** attached hereto and made a part hereof **for the total amount of \$54,123.84 payable at the rate of \$6,765.48 per month** with two (2) possible one (1) year renewal options, extending the contract period one year each based upon an **annual contract amount of \$81,185.76** exercisable at the sole option of the City; and

2. Funds shall be paid from account **#1-01-27-330-0000-028**.

3. The obligation of the City to make payment to the Contractor shall be limited to the funds appropriated and made available as set forth above.

4. The Contractor acknowledges that obtaining approval and payment of claims and required general books of account are subject to Municipal Council approval pursuant to N.J.S.A. 40A:5-17. Contractor further acknowledges that obtaining said approval may result in payment being received beyond the due date. Contractor agrees that the City shall not be charged interest, late fees and/or be charged for costs, expenses and liabilities, including but not limited to attorney fees, penalties, loss or damages.

C. CONTRACTOR'S INDEPENDENT STATUS

1. It is expressly understood and agreed that the status of the Contractor and its employees, agents, and officers shall be that of an independent contractor retained on a contractual basis to provide **Animal Control Officer and Animal Shelter Services** for the limited time frame set forth above and it is not intended, nor shall it be construed, that the contractor or any of its employees, officers and/or agents is/are (an) employee(s) or officer(s) of the City of Bayonne for any purpose whatsoever.

D. NON-DISCRIMINATION

In accordance with N.J.A.C. 17:27-1 et seq., during the performance of this contract, contractor agrees as follows:

a. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the public agency compliance officer setting forth provisions of this nondiscrimination clause;

- b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.
- c. The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127 (c. N.J.S.A. 10:5-31, et seq.), as amended and supplemented from time to time, and the Americans with Disabilities Act.
- e. The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, (c. N.J.S.A. 10:5-31, et seq.), as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Div. of Contract Compliance & EEO pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, (c. N.J.S.A. 10:5-31, et seq.), as amended and supplemented from time to time.
- f. The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.
- g. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal Court decisions.
- h. The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal Court decisions.
- i. The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).

E. ENTIRE AGREEMENT

1. It is expressly agreed that this written agreement embodies the entire agreement of the parties in relation to the subject matter, and that no understandings or agreements, verbal or otherwise, in relation thereto, exists between the parties except as herein expressly set forth.
2. The contract documents shall include this signed agreement, together with the following:

a. City's RFQ	YES	NO	N/A
b. Contractor's Corrected Response	{X}	{ }	{ }
c. Municipal Council Resolution	{X}	{ }	{ }
No. 21-04-14-088	{X}	{ }	{ }

F. OPRA COMPLIANCE

Records received, retained, retrieved, or transmitted under the terms of this contract and as a result of the “work” performed by Contractor/Contractor for or on behalf of the City may constitute public records as defined in N.J.S.A. 47.3-16, and are legal property of the City. The Contractor(s)/Contractor(s) named in this contract must agree to administer and dispose of such records in compliance with the State’s public record laws and associated administrative rules.

In the event a claim is filed against the City with the Government Records Counsel or, in the Superior Court of New Jersey, or otherwise arising out of documents that were requested of the City or its Contractor(s)/Contractor(s) under the Open Public Records Act or Common Law and the Contractor(s)/Contractor(s) failed to provide the documents, the Contractor(s)/Contractor(s) shall be responsible to defend, indemnify and hold the City harmless with respect to any such claims, fines or penalties imposed.

G. MODIFICATIONS

No change or modification of this contract shall be valid unless it shall be in writing, approved by the Municipal Council and signed by all parties.

H. SEVERABILITY CLAUSE

If it should appear that any of the terms of this Agreement are in conflict with any rule of law or statutory provision of this State, then such terms shall be deemed inoperative and null and void insofar as they are in conflict with such rule of law or statutory provision, and shall be deemed modified to conform to such rule of law.

I. EXCULPATORY CLAUSE

It is mutually understood and agreed that none of the parties hereto shall be held responsible for damages caused by delay or failure to perform hereunder, when such delay or failure is due to fires, strikes, acts of God, legal acts of the public authorities which cannot be reasonably forecast or provided against.

J. VALIDITY GOVERNED BY LAW OF NEW JERSEY

This agreement shall be subject to the provisions of the charter and revised municipal code of the City of Bayonne. Additionally, the validity of this contract shall be governed by the Laws of the State of New Jersey and any legal action arising out of this contract shall be commenced in the courts of the State of New Jersey. Furthermore, all parties to this agreement consent to the jurisdiction of the Superior Court of New Jersey, County of Hudson.

K. NOTICES

All notices given by either party to the other shall be delivered, in writing, as follows:

To the City of Bayonne: **Timothy Boyle**
Director of Municipal Services
City of Bayonne
630 Avenue C
Bayonne, NJ 07002

To the Contractor: **NJ Humane Society, Corp.**
6412 Dewey Avenue
West New York, NJ 07093

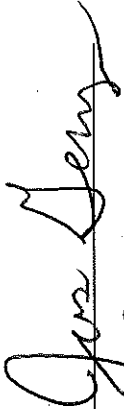
L. CANCELLATION BY THE CITY OF BAYONNE

It is agreed by the parties hereto that the City of Bayonne shall have the right to terminate this agreement at any time during the term, without cause and without penalty, by giving the contractor at least thirty (30) days written notice.

IN WITNESS WHEREOF, the Contractor has caused this agreement to be executed in its corporate name by its President, attested by its Secretary and its corporate seal to be hereunto affixed, the day and year first above written, and the City has caused this agreement to be executed in its corporate name by the Mayor, attested by the City Clerk, approved by the Law Department (as to form only), and its corporate seal to be hereunto affixed the day and year first above written.

NJ HUMANE SOCIETY, CORP.

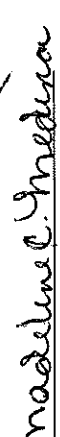
Attest:

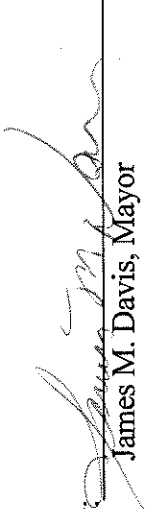
By: 
Jose Gomez

By: 
Lisa Menendez

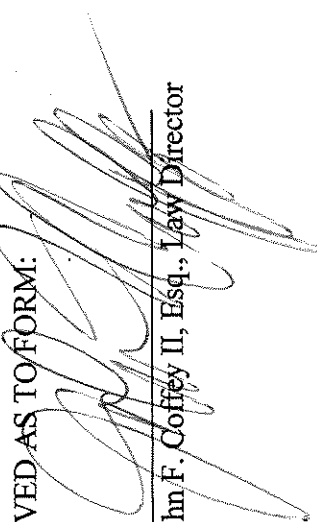
CITY OF BAYONNE

Attest:

By: 
Madelene C. Medina, City Clerk

By: 
James M. Davis, Mayor

APPROVED AS TO FORM:

By: 
John F. Coffey II, Esq., Law Director

MUNICIPAL COUNCIL OF THE CITY OF BAYONNE

RESOLUTION NO. 21-04-14-088

WHEREAS, the City of Bayonne is in need of an **Animal Control Officer and Animal Shelter Services** for the period commencing **May 1, 2021** and ending **December 31, 2021**, with two (2) possible one (1) year renewal options, extending the contract period one year each; and

WHEREAS, the City of Bayonne advertised a Request for Qualifications for the aforesaid Animal Control Officer and Animal Shelter Services pursuant to the fair and open contracting provisions set forth in N.J.S.A. 19:44A-20.4 and N.J.S.A. 19:44A-20.5; and

WHEREAS, **NJ Humane Society, Corp., 6412 Dewey Avenue, West New York, New Jersey 07093** has submitted to the City of Bayonne a formal written response to the City's Request for Qualifications/Proposals for said services; and

WHEREAS, **NJ Humane Society, Corp.**, is qualified, ready, willing and able to provide said services for a contract amount of **\$81,185.76 per year** payable at the rate of **\$6,765.48** per month; and

WHEREAS, the City desires to retain the services of **NJ Humane Society, Corp.**, for the period commencing **May 1, 2021** and ending **December 31, 2021** payable at the rate of **\$6,765.48 per month** for a total contract amount of **\$54,123.84** for the **eight (8) month period** with two (2) possible one (1) year renewal options, extending the contract period one year each; and

WHEREAS, any subsequent renewals would be based upon an **annual contract amount of \$81,185.76**; and

WHEREAS, this professional services contract was advertised under the Fair & Open Contracting Requirements pursuant to N.J.S.A.19:44A:20.4.5; and

WHEREAS, this contract constitutes a "Professional Service" contract under the provisions of the Local Public Contracts Law because the service is a recognized profession, licensed and regulated by the State of New Jersey, and therefore, may be awarded without competitive bidding pursuant to N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contract Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for "Professional Services" without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, pursuant to N.J.A.C. 5:30-5.5(e), the award of the contract shall be subject to the availability and appropriation of funds in the **CY2021** budget in account **#1-01-27-330-0000-028**; now, therefore, be it

RESOLVED, by the Municipal Council of the City of Bayonne as follows:

1. The Mayor and the City Clerk are hereby authorized and directed to execute an agreement with **NJ Humane Society, Corp., 6412 Dewey Avenue, West New York, New Jersey 07093** for the aforesaid **Animal Control Officer and Animal Shelter Services** for the period commencing **May 1, 2021** and ending **December 31, 2021** payable at the rate of **\$6,765.48 per month** for a total contract amount of **\$54,123.84** for the **eight (8) month period** with two (2) possible one (1) year renewal options, extending the contract period one year each calculated at \$84,185.76 if exercised.
2. A notice of this action shall be printed once in a newspaper of general circulation within the boundaries of the City of Bayonne.
3. Funds shall be chargeable to account **#1-01-27-330-0000-028**.
4. Pursuant to N.J.A.C. 5:30-5.5(e), the award of the contract shall be subject to the availability and appropriation of funds in the **CY2021** budget in account **#1-01-27-330-0000-028**.

JFC:nmi

A TRUE COPY

Madeline L. Medina
CITY CLERK

ADDENDUM TO AGREEMENT #CY21-062

THIS ADDENDUM TO AGREEMENT #CY19-062 entered into this 17th day of August, 2021 between NJ HUMANE SOCIETY, CORP. (the "Contractor"), having an address at 6412 DEWEY AVENUE, WEST NEW YORK, NEW JERSEY 07093, and the City of Bayonne (the "City"), a municipal corporation, having its principal offices at 630 Avenue C, Bayonne, New Jersey 07002 (collectively the "Parties");

The following is hereby agreed between the Parties that the following language is added to Section A, Subsection II, Subparagraph 2 (b):

IV. Automobile and Truck Liability

- A. Automobile and truck liability insurance which shall be written to cover any automobile or truck used by the insured. Limits of liability for bodily injury and property damage shall be not less than \$1,000,000.00 per occurrence as a combined single limit.

NJ HUMANE SOCIETY, CORP.

Attest:
By: [Signature]

By: [Signature]

CITY OF BAYONNE

Attest:

By: [Signature]
Madelene C. Medina, City Clerk

By: [Signature]
James M. Davis, Mayor

APPROVED AS TO FORM

By: [Signature]
John F. Coffey II, Esq., Law Director