

DOMESTIC ANIMAL CONTROL SERVICES AGREEMENT

Pursuant to the provisions of 66.0301 of the Wisconsin Statutes, this agreement is made and entered into as of January 1, 2009 by and between participating municipalities as set forth in Exhibit E (collectively the "municipalities,") to establish a jointly-operated animal control services facility for dogs and cats, hereinafter called "Milwaukee Area Domestic Animal Control Commission" (MADACC.)

Recitations

Whereas, the parties to the agreement have found it advisable to engage in the provision of a unified animal control service, and whereas the local governing bodies of the parties have approved a plan and funding formula for animal control services which serve as a basis for implementing this agreement.

Now, therefore, in consideration of the following mutual covenants and conditions, the municipalities agree as follows:

1. Board of Directors. The municipalities hereby create and establish a Board of Directors (the "Board of Directors") for the purpose of providing for general direction of MADACC, pursuant to Section 66.0301 of the Wisconsin Statutes.
 - 1.1 Board members and Terms of Office. The Board of Directors shall consist of the mayors or village presidents of each of the municipalities or their respective designees. Each municipality shall designate in writing to the Board President an alternate member to serve in the absence of the designated member of the Board of Directors; Board members and Board alternates shall be appointed and term of office defined in the manner in which the governing body of the participating municipality shall determine.
 - 1.2 Quorum. A majority of the Board of Directors members shall constitute a quorum for the transaction of any business at a meeting of the Board of Directors.
 - 1.3 Official Action. Except as expressly hereinafter provided in this agreement, the act of the majority of the Board members shall be the act of the Board of Directors; each Board member shall have one vote.
 - 1.4 Meetings. Meetings of the Board of Directors shall be held not less frequently than twice in each calendar year, and otherwise at the call of the President or upon the written request of at least five members of the Board of Directors. Notice of a meeting of a Board of Directors shall be given to the Board members in writing not less than seventy-two (72) hours prior to the time of the meeting. The meetings of the Board of Directors shall be subject to the Open Meetings Law.

- 1.5 **Voting Requirements.** The affirmative vote of a majority of the Board of Directors members is required on all issues brought before the Board of Directors, except as provided in Section 17.
 - 1.6 **Officers.** The officers of the Board of Directors shall be a President, Vice President, Secretary and Treasurer. The officers shall be elected at the first meeting of the Board of Directors occurring after January 1, of each year, and officers so elected shall hold office until their successors are duly elected and qualified.
2. **Operations Committee.** An Operations Committee is hereby created and established for the purpose of providing for direct oversight of operations of MADACC.
 - 2.1 **Operations Committee Members and Terms of Office.** The Operations Committee shall consist of the following individuals or their designees:
 - A. The President of the Board of Directors, for a term as long as President, who shall serve as Chair.
 - B. The Board of Directors' members from the following municipalities: Milwaukee, Wauwatosa, and West Allis, for a term as long as they are the participating municipalities' designate.
 - C. Two other Board of Director's members from the other sixteen participating municipalities, as selected by those sixteen municipalities, for two year terms.
 - D. One additional representative of the City of Milwaukee, for as long as and as selected by the Milwaukee Board of Director member.
 - 2.2 **Quorum.** A majority of the Operations Committee members shall constitute a quorum for the transaction of any business at a meeting of the Operations Committee.
 - 2.3 **Official Action.** Except as expressly hereinafter provided in this agreement, the act of the majority of the Operations Committee members shall be the act of the Operations Committee.
 - 2.4 **Meetings.** Meetings of the Operations Committee shall be held not less frequently than once in each calendar quarter, and otherwise at the call of the President or upon the written request of a least three Operations Committee members. Notice of a meeting of an Operations Committee shall be given to the Operations Committee members in writing not less than seventy-two (72) hours prior to the time of the meeting. The meetings of Operations Committee shall be subject to the Open Meetings law.

- 2.5 Voting Requirements. The affirmative vote of a majority of the Operations Committee members is required on all issues brought before the Operations Committee, except that the affirmative vote of the number of Operations Committee members set forth below shall be required for the action specified:
 - A. The purchase or sale of any asset having a value in excess of \$50,000 shall require the affirmative vote of two-thirds or more Operations Committee members;
 - B. The expulsion of any members shall require the affirmative vote of two-thirds or more Operations Committee members.
3. Compensation. No compensation shall be paid to Board of Directors members or Operations Committee members for their services, but they may be reimbursed for actual necessary expenses incurred if so authorized, and if funds are contained within the approved budget.
4. Powers - Board of Directors. Except as limited by this agreement or amendments hereto, the Board of Directors shall have all the powers and duties authorized for commissions pursuant to Section 66.0301, Wisconsin Statutes. Such powers shall include, but not necessarily be limited to, the following:
 - A. To approve the annual budget for the MADACC's operating expenses, and capital improvement expenses. For the purposes of this paragraph, the term "operating expenses" shall include the usual and ordinary cost of operation of the MADACC, the operation and routine maintenance of building(s) used by the MADACC, and the repair and renewal of the MADACC's physical assets including expenses and ordinary additions to its assets.

For the purposes of the above paragraph, the term "capital improvement expenses" shall include the expenditures related to structural improvements of premises, purchase of equipment which has a life of at least five (5) years and a cost of \$10,000 or more, and replacement or addition of building infrastructure, to include heating, electrical, and plumbing systems.

- B. To approve any sale, exchange, conveyance, or transfer of total physical assets having a fair market value in excess of twenty-five thousand dollars (\$25,000) in any one calendar year.
- C. To approve a plan which addresses reduction in the tax levy cost on a percentage and real basis of the facility's operating budget.

5. **Powers - Operations Committee.** The Operations Committee shall have all the powers and duties relating to the MADACC operation as provided by this agreement and by the Board of Directors. Such powers shall include, but not necessarily be limited to, the following:

- A. To authorize repair, maintenance, and renewal of the physical assets which are owned by the MADACC.
- B. To recommend adoption of a budget to the Board of Directors for the MADACC's operating expenses and for the MADACC's capital improvement expenses.

For the purposes of the above paragraph, the term "capital improvement expenses" shall include the expenditures related to structural improvements of premises, and replacement or addition of building infrastructure, to include heating, electrical, and plumbing systems.

- C. Upon receiving the Board of Director's approval of the capital and operating budgets, to authorize and contract to make all expenditures deemed necessary by the Board of Directors for operating and capital expenditures not in excess of the approved budget.
- D. In the event the operating and capital improvements budget is not approved by the Board of Directors as set forth herein above, the Operations Committee shall operate at the prior calendar year's level of expenditures, plus any cost increases resulting from contractual obligations incurred in prior years, until agreement is reached by the Board of Directors.
- E. To sell, exchange, convey, or transfer total physical assets of the MADACC, for fair and equitable consideration, as determined to be necessary from time to time, having a fair market value not in excess of twenty-five thousand dollars (\$25,000) in any one calendar year.

- F. To recommend fees for services where permitted by law, and to charge and collect such fees as may be approved by the Board of Directors.
 - G. To recommend a plan which addresses a reduction in the tax levy cost on a percentage and real basis of the facility's operating budget.
6. **Fiscal Responsibilities.** Upon approval of this agreement, proposals for the appointment of the MADACC's fiscal agent shall be submitted by participating municipalities, which shall include the term and annual fee for such services. Selection of the fiscal agent will take into account the costs, as well as the specifications of the proposal. Selection of the fiscal agent will be recommended by the Operations Committee to the Board of Directors for approval. Duties of the fiscal agent shall include, but not be limited to:
- A. Maintaining financial records.
 - B. Receiving and disbursing funds.
 - C. Providing payroll administration.
 - D. Administering insurance program.
 - E. Contract Administration, when authorized by the Operations Committee.
 - F. Function as records custodian.
 - G. Other in order to satisfy other paragraphs of this agreement.
7. **Employees/Independent Contractors.** Operations Committee shall be authorized to hire employees of the MADACC for all operational purposes. In lieu of hiring its own employees, the Operations Committee may select a qualified operator, through an open and competitive process, to function as an independent contractor for said purposes.
8. **Budget.** The Operations Committee shall submit to the Board of Directors for its approval not later than October 31 of each year, a single budget to cover the MADACC's income, operating expenses, and capital expenditures for the following calendar year. Such budget shall be in a form prescribed by Wisconsin Statute 65.90, with respect to municipal budgets and shall, in addition, contain an explanation of the Operations Committee's reason for recommending any total annual capital expenditure. No expenditure shall be made or contracted for by the Operations Committee or any MADACC's employee with respect to any proposed item of operating expense or capital expenditure not contained in the prior year's budget until the approvals by the Board of Directors as provided in this agreement have been obtained. No item of operating expense or capital expenditure not provided for in the budget shall be made

or contracted for by the Operations Committee or by any MADACC's employee except as authorized by the Operations Committee.

In addition, the Operations Committee shall monitor the condition of the capital assets owned and controlled by the MADACC, and shall annually furnish estimated dates and costs of replacement or reconstruction for each item over a ten-year period to the Board of Directors for approval.

9. **Ownership of Assets.** The MADACC created by the agreement shall be the legal owner of assets contributed to or acquired by the MADACC, including real estate, buildings and fixtures, and where applicable, such assets shall be titled in the name of the MADACC. All assets contributed to or acquired by the MADACC shall be owned and held by the MADACC subject to the provisions for division of assets on termination of this agreement as set forth at Paragraph 15 in this agreement.
10. **MADACC Funds.** Where required by this agreement, MADACC is designated to pay all expenditures authorized by the Operations Committee and which are in accordance with the budget approved by the Board of Directors, and receive all service revenue as approved. MADACC shall keep a separate fund for all receipts and disbursements. MADACC shall keep complete and accurate records of all receipts and disbursements of the MADACC, which shall be available for public inspection, and shall furnish each member of the Board of Directors with annual audit reports thereof no later than six (6) months after each year of operation.
11. **Payment of Expenses.** Subject to the spending limits set forth in each participating municipalities' authorizing resolution, the participating municipalities shall bear and pay the net operating expenses and capital expenditures of the MADACC as established according to the following procedures and proportions.
 - 11.1 **Financing Formula.** Each participating municipality's annual financial contribution to the MADACC's operating, maintenance, and capital budgets shall be calculated in the manner described in the formula and percentages outlined as follows:
 - A. Capital costs shall be identified in the annual budget approved by the Board of Directors to include land acquisition, building construction, and related items. Any capital expenditure in excess of \$500,000 for capital costs shall be approved by 2/3 of the Board of Directors.
 - B. Annual debt service (principal and interest) based on each participating municipality's most current equalized value, as constituted by the debt service structure (principal and interest,) as a percent of the total county equalized value, from Wisconsin Department of Revenue values as used in Milwaukee County's annual tax levy distribution. (See Original Exhibits A & B and Current Exhibits A & B).

- C. Annual operating costs shall be based on each participating municipality's usage of the services of MADACC in the most recent three (3) complete calendar years.
 - D. The annual percentage increase in the annual operating costs (General Fund) shall not exceed the percentage of increase in the U.S. Urban CPI index, all wage earners, for the twelve (12) months ended on September 30 next preceding the budget year. Further, a 2% additional increase in the annual operating costs (General Fund) may be authorized for deficit reduction and reasonable surplus accumulation through budget year 2018.
- 11.2 MADACC will submit to each participating municipality's municipal clerk, a written statement (itemizing the approved calculation formulas) requiring payment of that participating municipality's share of the estimated net operating expenses for the fiscal year which must be paid in quarterly payments as required by Section 11.3, which notice shall be given not later than fifteen (15) days following approval of the MADACC's budget by the Board of Directors, Capital expenditures (interest and principal on the debt service) shall be paid five (5) working days prior to the due dates.
- 11.3 Thereafter, fifteen (15) days prior to the first day of the first, fourth, seventh, and tenth month of the year, MADACC shall submit to each participating municipality's municipal clerk, a quarterly statement requiring payment of one-fourth of that participating municipality's share of the net operating expenses, to be paid by the first day of the first, fourth, seventh, and tenth month of each year. Capital expenditures (interest and principal on the debt service) shall be paid to the fiscal agent five (5) working days prior to the due date.
- 11.4 If any participating municipality fails to pay in full each payment to be made by it as provided by this agreement on the due date, such defaulting municipality shall be indebted to the other participating municipalities for the payment due, plus interest at the prevailing prime rate in Milwaukee, Wisconsin, from the due date until payment. Legal action to enforce such payments due by the defaulting municipality may be taken by the Operations Committee. Any recovery collected shall be paid to reimburse any other participating municipality to the extent it paid any part of such defaulted payment plus interest, and the balance of such payments, plus interest, shall be made to the MADACC, which interest shall be credited against payments to be made by the participating municipality or municipalities that were not in default. If two or more participating municipalities were not in default, such interest shall be credited to the non-defaulting municipalities in the proportion each paid. In addition to the sum of in default, and interest, as above provided there shall be included

in the judgment all costs, disbursements, and a reasonable sum as attorney's fees.

- 11.5 If a participating municipality disputes the amount owed, it shall so notify the Operations Committee in writing, within thirty (30) days of receipt of the statement by the participating municipality. Such written notice by the participating municipality shall not relieve the participating municipality from making payments as set forth in Section 11.3. If the dispute cannot be resolved between the participating municipality and the Operations Committee, the matter shall, upon application by the participating municipality, be referred to the Board of Directors. The decision of the Board of Directors shall be final.
12. Term of Agreement. This agreement shall take effect upon the effective date stated herein after the adoption by the governing body of each participating municipality of a resolution approving the agreement and authorizing its execution. This agreement shall remain in effect and perpetuity subject to the following:
- 12.1 Any participating municipality wishing to withdraw from this agreement may do so on at least two (2) years written notice addressed to each Board of Directors member..
13. Effect of Withdrawal. The withdrawal of any participating municipality from this agreement shall not terminate this agreement.
- 13.1 Any participating municipality which withdraws shall be obligated for its proportional share of any debt service (principal and interest) incurred while that participating municipality was a member of MADACC.
- 13.2 The fact that a participating municipality is paying or is required to pay on debt service (principal and interest) incurred while that participating municipality was a member of MADACC shall not entitle a withdrawn municipality to any of the services provided by MADACC.
14. Termination. This agreement may be terminated at any time by the written consent of all participating municipalities or upon the withdrawal of all but one participating municipality, provided that this agreement and the Operations Committee and Board of Directors shall continue to exist for the purpose of disposing of all claims, distribution of assets, and all of the functions necessary to terminate the affairs of the MADACC.

15. Distribution of Assets. Upon termination, the participating municipalities shall be entitled to a distribution of assets as set forth below:
 - A. Net monies or funds (including cash on hand and money due but uncollected) of the MADACC shall be distributed to the withdrawing or terminating municipality in the proportion of the previous year's cost allocation formula percentage of the withdrawing municipality or terminating municipalities, provided said distribution may be deferred by the Operations Committee in whole or in part for up to one year as a reserve to meet liabilities known and unknown.
 - B. The distribution of assets provided in Subparagraph A. of this paragraph shall be with respect to real estate, building, and fixtures, titled in the name of MADACC. The withdrawing or terminating municipality shall be entitled to a cash payment in the amount of the proportional share of the actual value of such property, net of depreciation, equal to the withdrawing or terminating municipality's proportionate share of contributions allocated to such property. The withdrawing or terminating municipality shall have no right to require a partition of any such real estate. In the event of a cash payment, such payment may be made in equal annual installments, bearing interest at the rate specified in Paragraph 11.4 over a period of not more than four (4) years with respect to equipment, and not more than ten (10) years with respect to real estate, building, or fixtures.
16. Participation. Additional municipalities (including reinstated municipalities) may be permitted to become parties to this agreement, but only upon the approval of two-thirds of the governing bodies of the participating municipalities which have maintained in a current status their financial obligations there under, upon such terms and conditions that such participating municipalities may adopt.
17. Amendments. Amendments to this agreement or any exhibits hereto may be proposed by any Board of Directors member. The amendment shall be submitted to the Board of Directors at least thirty (30) days prior to the meeting of the Board of Directors at which such amendment is to be considered. A unanimous vote of the Board of Directors shall be required to recommend any amendment to the governing body of the participating municipalities. Any amendments to this agreement or any exhibit hereto shall be unanimously approved by all participating municipalities.
18. Hold Harmless. Any uninsured liability, costs of damages for personal injury, property damage, or any other loss of whatever nature incurred by the MADACC or any participating municipality by reason of services provided by the MADACC shall be the liability of the MADACC, subject to the contributions of the participating municipalities herein described. Any such uninsured liability, costs, or damage shall be paid proportionately by each of the participating municipalities in accordance with the formula established in Paragraph II.(c) of this agreement, notwithstanding the political jurisdiction in which such injury, loss, or damage occurs, through

contributions by such participating municipalities to the operating budget, or if such operating budget is insufficient, through additional contributions to the MADACC made proportionately by each participating municipality in accordance with the formula established in Paragraph 11.1 of this agreement.

19. **Partial Invalidity.** If any provision of this agreement shall be held or declared invalid, illegal, or unenforceable under any law applicable thereto, such provision shall be deemed deleted from this agreement without impairing or prejudicing the validity, legality, and enforceability of the remaining provisions hereof.
20. **Insurance.** The MADACC shall procure and maintain during the term of this agreement sufficient insurance to cover all aspects of this operation including insurance for fire and other perils on the structure(s) occupied by the MADACC. Such insurances shall include, but not be limited to property, workers compensation, general and auto liability, energy systems, errors and omissions, and employee dishonesty insurance coverages. Such insurance shall name each of the participating municipalities as an additional insured.
21. **Animal Licenses and Fees.** The Operations Committee shall develop a standard license tag and form to be used by all participating municipalities and shall keep records on each license sold. Each participating municipality will purchase at nominal cost to cover production expenses, tags from the MADACC and sell at a fee to be determined by the participating municipality animal licenses in its municipality. Fees shall be established by each participating municipality and the approved revenue collected shall be kept by the participating municipality.
22. **Services Provided to Members.** The MADACC shall provide to the participating municipalities the services set forth in Exhibit C attached hereto and made a part hereof. Failure on the part of MADACC to substantially provide said services shall be grounds for a participating municipality to withdraw from this agreement, Section 12 and 13 notwithstanding. Notice of such withdrawal shall be in writing addressed to each member of the Board of Directors.

23. This agreement shall be subject to the authorizing resolution of the participating municipality's Common Council/Village Board and the conditions set forth in said resolution provided that the resolution is in the form as set forth in Exhibit D attached hereto.

Signed and dated this day of

Village/City of

Village/City Clerk

Mayor/Village President

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The Milwaukee Area Domestic Animal Control Commission (MADACC) will be established with the following service framework to be provided to the municipalities participating in MADACC and their residents:

1. Provide shelter for stray and running-at-large dogs and cats, also safekeeping and quarantine.
 - a. Include housing, feeding, veterinary care.
 - b. Response to calls for capture and pickup; general vehicular patrol not provided.
 - c. Comply with State law with regard to shelter and care; will use euthanasia only as a last resort.
 - d. Provide morgue, cold storage, disposal of carcasses.
 - e. Submit specimens as required to State Department of Public Health.
 - f. Provide euthanasia on customer fee-for-service basis for old, sick, and injured dogs and cats.
 - g. Dispose of dead dogs and cats on a customer fee-for-service basis; however, no pick-up service for dead animals.
 - h. Provide for, through referral, implanting of computer chips in dogs and cats on a customer fee-for-service basis.
 - i. The facility would have hours as follows:
 - (1) 64 open hours
 - (2) 104 closed hours (available for drop off, response basis for call-in.)
2. Promote Education and Licensing, Marketing (see report of other subcommittee.) Administrative handling and promotions reflecting proactive approach.
3. Provide adoption referral, networking and coordination.
 - a. Establish memorandum of understanding/agreements to accept dog and cat animal adoption referrals with:
 - (1) Metropolitan area humane societies (e.g. Wisconsin Humane Society, Washington County Humane Society, Waukesha County Humane Society, Racine County Humane Society, Ozaukee County Humane Society, Elmbrook Humane Society, etc. Animal rights groups (e.g. Wisconsin Society for the Prevention of Cruelty to Animals, Wisconsin Animal Protection Society, etc.)

(2) Animal rights groups (e.g. Wisconsin Society for the Prevention of Cruelty to Animals, Wisconsin Animal Protection Society, etc.)

(3) Establish holding criteria for societies/groups and conduct quarterly facility inspections

b. Related operating considerations

(1) Hold dogs and cats for seven days

(2) Encourage patrons to take adoptable dogs and cats directly to Humane Society and Animal Rights groups; does not apply to lost and strays.

(3) Establish drop-off charge

(4) Handle other domestic animals as required by law.

(5) Law enforcement investigation of animal abuse complaints to be done by local police departments, unless later determined to be cost and operationally efficient for the facility to assume that responsibility

4. Provide wildlife referral, networking and coordination.

a. Each municipality will be responsible for the capture, handling, and transmittal of wildlife through its health department, police department, or public works department.

b. The facility would provide networking and coordination, as well as referral to private trappers/pest control services.

5. The following services may be referred to private veterinarian and/or other service providers, humane societies, etc.

- Cruelty investigation
- Veterinary treatment and surgery for old, sick and injured animals
- Advocacy and legislative lobbying
- Outreach
- Search and recovery

6. Provide limited adoption service

7. Provide limited veterinary services