



Resolution 2021-05

STATE OF ALABAMA
JEFFERSON COUNTY
CITY OF CLAY

**A RESOLUTION TO CONTRACT WITH THE GREATER BIRMINGHAM
HUMANE SOCIETY FOR ANIMAL CONTROL AND POUND SERVICES**

WHEREAS, on January 2019, the Jefferson County Commission issued an Invitation to Bid No. 4-16 (“ITB”) on behalf of the Purchasing Association of Central Alabama (“PACA”) and its Members, whereby it would accept sealed bids for Animal Control and Pound Services pursuant to the ITB; and

WHEREAS, on January 2019 Jefferson County awarded the bid pursuant to the ITB No. 4-16 as amended, to The Greater Birmingham Humane Society, Inc. (“GBHS”); and

WHEREAS, the Services, defined herein, to be performed under the ITB may be performed by a subcontractor of the GBHS which is The Greater Birmingham Humane Society Animal Care and Control, LLC (“Vendor”); and

WHEREAS, the City of ___Clay___ (“City”), as a Member of PACA, is entitled to enter into an Agreement for Animal Control Services as set out in the ITB (the “Services”); and

WHEREAS, the ITB includes pound services to be paid on a pro rata basis to Jefferson County (the “Pound Services”) but does not include animal control field services for municipalities with a population over 5,000 pursuant to the Code of Alabama 1975, Section Title 3-7A-7; and

WHEREAS, the City desires to retain GBHS to perform Services, excluding where applicable Pound Services; and

NOW, THEREFORE, BE IT RESOLVED by the City Council (the “Council”) of the City:

Section 1. Recitals. The foregoing Recitals are incorporated herein by reference and form an integral part of this Resolution.

Section 2. Invitation to Bid 4-16. GBHS has acknowledged that the terms of the ITB are hereby offered to the City and shall be incorporated into the provision of Services provided for in this resolution.

Section 3. Public Purpose. The Council does hereby ascertain, determine, declare and find that GBHS provision of the Services and entering into an agreement as provided in Section 5 will serve a public purpose and is necessary and desirable, and in the best interest of the City and the health, safety and welfare of its inhabitants, by allowing for the humane control and care of animals in the City and access to pound facilities. The Council finds that the above-cited items constitute important public benefits to the City and its citizens.

Section 4. Approval to Perform the Services. GBHS submitted a “Price Sheet” in response to the ITB, which is attached as Exhibit “A” hereto and incorporated by reference as if set out fully herein, (the “Price Sheet”) and the Council hereby approves and authorizes GBHS to perform the Services as set out in the ITB in the City and the City shall pay GBHS the cost not to exceed the amounts set forth in the Price Sheet, excluding where applicable Pound Services paid pro-rata to Jefferson County, as provided in the ITB.

Section 5. Agreement for Services. The Price Sheet sets forth the prices for the Services to be performed by GBHS in the City. The Mayor of the City is hereby authorized and directed to negotiate with GBHS on behalf of the City and execute and deliver on behalf of the City an agreement in substantially the form set forth in Exhibit “B”, with such changes or additions to such agreement as the Mayor of the City shall approve, which approval shall be conclusively evidenced by his or her execution of the agreement and attestation by the City Clerk.

Section 6. Approved Subcontractor. Vendor was expressly incorporated into the response to the ITB to perform services for GBHS as a subcontractor. Vendor, as a subcontractor, is hereby approved to perform all or a portion of the Services for the City.

Section 7. Other Necessary Action. The officers and staff of the Council and Mayor are hereby authorized to take such other action as may be necessary or desirable to carry out the provisions of this resolution.

Section 8. Relationship. GBHS is an independent contractor of the City. This resolution does not create any partnership, joint venture or principal-agent relationship between the City and GBHS. Further, the City retains no control or authority with respect to its means and methods in which GBHS (or any of its employees, subcontractors, or representatives) performs the Services.

Section 9. Provisions of Resolution a Contract. The terms, provisions and conditions set forth in this resolution constitute a contract between the City and GBHS conferring all necessary legal authority for GBHS to perform the Services in the City and shall remain in effect until an agreement is executed in accordance with Section 5 of this resolution or one year, whichever is earlier.

Section 10. Severability. If any provision in this resolution shall be invalid, illegal or enforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

ADOPTED AND APPROVED, this the 23rd Day of February, 2021.

Charles K. Webster
Mayor

Attest: _____
Ronnie Dixon
City Manager

EXHIBIT B
[FORM OF]
Animal Control Services
Fee for Service Contract

THIS AGREEMENT entered into this 23rd day of February, 2021, by and between the City of Clay, (hereinafter “City”) and The Greater Birmingham Humane Society, Inc. (hereinafter “Vendor”).

WHEREAS, on January 2019, the Jefferson County Commission issued an Invitation to Bid No. 4-16 (“ITB”) on behalf of the Purchasing Association of Central Alabama (“PACA”) and its Members, whereby it would accept sealed bids for Animal Control and Pound Services pursuant to the ITB; and

WHEREAS, on January, 2019 Jefferson County awarded the bid pursuant to the ITB No. 4-16, as amended, to The Greater Birmingham Humane Society, Inc.; and

WHEREAS, the Services, defined herein, to be performed under the ITB may be performed by a sub-Contractor of the GBHS which is The Greater Birmingham Humane Society Animal Care and Control, LLC; and

WHEREAS, the City, as a Member of PACA, is entitled to enter into an Agreement with for Animal Control Services as set out in the ITB (the “Services”); and

WHEREAS, the ITB includes pound services to be paid on a pro-rata basis to Jefferson County (the “Pound Services”) but does not include animal control field services for municipalities with a population over 5,000 pursuant to the Code of Alabama 1975, Section Title 3-7A-7; and

WHEREAS, the City desires to Contract for Services, excluding where applicable Pound Services, on a fee for service basis; and

WHEREAS, the Vendor desires to furnish said services to the City;

NOW THEREFORE, the parties hereto mutually agree as follows:

ENGAGEMENT OF VENDOR: The City hereto agrees to engage the Vendor and the Vendor hereby agrees to perform the services hereinafter set forth.

SCOPE OF SERVICE: This contract results from the ITB. The terms of which are included herein by reference. The City desires to enter into a contract with the Vendor to provide the Services, excluding where applicable Pound Services, on a fee for services basis as described in the ITB and attached Price Sheet.

TERMS OF AGREEMENT AND AUTHORIZATION TO PERFORM WORK: This contract is for the earlier of one (1) year or until February 23, 2021, effective upon signatures of the below designated officials, and shall continue in effect unless termination notice is given as herein provided.

This term is subject to a sixty (60) day cancellation by either party for any reason, so long as proper notice is sent to the addresses as provided under Number 13 “Notices” of this Agreement.

Vendor shall provide at least a thirty (30) day notification of change to any hourly rate or boarding fee. Should a rate change occur and municipal funding is lacking, the City shall be permitted to terminate all services on the thirtieth day following the notification of a rate change.

COMPENSATION: The Vendor shall be compensated for services rendered, excluding where applicable Pound Services paid pro-rata to Jefferson County, as shown on the Price Sheet attached

as Exhibit "A". With respect to Animal Control Field Services, Vendor will provide those services at \$41 per hour for 3 hours per week. Vendor will invoice the City for the Services including basic monthly charge, veterinary fees and animal boarding fees no later than ten (10) days after the beginning of each month for the preceding month. City shall reimburse Vendor for invoiced services in a timely manner, not to exceed fourteen (14) days following receipt.

ASSIGNMENT: No portion of the proposal or resulting project contract may be sold, assigned, transferred or conveyed to a third party without the express written consent of the City. The City hereby approves all sub-Contractors included in the Vendor's response to the ITB. Should the City authorize Vendor to subcontract (assign) any portion of this contract, Vendor will maintain the ultimate legal responsibility for all services according to contract specifications. In the event of a subcontract, Vendor must maintain a continuous effective business relationship with the sub-Contractor(s) including, but not limited to, regular payment of all monies owed to any sub-Contractor. Failure to comply with these requirements, in whole or part, will result in termination of the contract and/or legal ramifications, due to nonperformance.

GOVERNING LAW/DISPUTE RESOLUTION: The parties agree that this contract is made and entered into in Jefferson County, Alabama and that all services, materials and equipment to be rendered pursuant to said Agreement are to be delivered to the City in Jefferson County, Alabama. The interpretation and enforcement of this Agreement will be governed by the laws of the State of Alabama. The parties agree that jurisdiction and venue over all disputes arising under this Agreement shall be the Circuit Court of Jefferson County, Alabama.

STATEMENT OF CONFIDENTIALITY: Vendor agrees that any information accessed or gained in performance of those duties will be maintained in absolute confidence and will not be released, discussed, or made known to any party or parties for any reason whatsoever, except as required in the conduct of duties required, or where disclosure is required by law or mandated by a court of law.

INDEPENDENT CONTRACTOR: The Vendor acknowledges and understands that the performance of this contract is as an Independent Contractor and as such, the Vendor is obligated for Workmen's Compensation, FICA taxes, Occupational Taxes, all applicable federal, state and local taxes, etc. and that the City will not be obligated for same under this contract.

NON-DISCRIMINATION POLICY: The Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, disability or veteran status, pursuant to the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 1981, 1983, 1986 and all amendments thereto relevant to discriminatory employment practices. The Vendor will ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, age, disability or veteran status. Such action shall include, but not be limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship. In the event of Vendor's non-compliance with the equal opportunity clause of this contract, this contract may be cancelled, terminated, or suspended in whole or in part and the Vendor may be declared ineligible for further City contracts. This paragraph must also be included in any subcontract or purchase order by Vendor on behalf of the City. Vendor agrees to furnish to the City, upon request, reports, notices, policies and/or information certifying compliance with this policy.

MISCELLANEOUS REQUIREMENTS: Upon execution of this contract, the Vendor shall furnish the City with information required for Form 1099 reporting and other pertinent data required by law.

TERMINATION OF CONTRACT: This contract may be terminated by the City with a sixty (60) day written notice to the other party regardless of reason. Any violation of this agreement shall constitute a breach and default of this agreement. Upon such breach, the City shall have the right to immediately terminate the contract and withhold further payments. Such termination shall not relieve the Vendor of any liability to the City for damages sustained by virtue of a breach by the Vendor.

LIABILITY: The Vendor will indemnify and hold harmless the City, its elected officials and its employees from claims, suit, action, damage and cost of every name and description resulting from the performance of the Vendor, its agents, sub-Contractors or employees under this contract. The City agrees, to the extent allowed by law, to indemnify and save harmless the Vendor, its corporate officers and its employees from claims, suit, action, damage and cost of every name and description resulting from the performance of services unless negligence is found on part of Vendor.

NOTICES: Unless otherwise provided herein, all notices or other communications required or permitted to be given under this contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand or sent via certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at the following addresses or to any other person at any other address as may be designated in writing by the parties:

City of Clay
PO Box 345
Clay, AL 35048

The Greater Birmingham Humane Society, Inc.
300 Snow Drive
Birmingham, AL 35209

AMENDMENT OF AGREEMENT: This contract contains the entire understanding of the parties, does not change any term or provision of the contract and shall be valid or binding unless so amended by written instrument which has been executed or approved by the City. Any such amendment shall be attached to and made a part of this contract. A written request must be made to the City and an amended agreement will be executed.

INSURANCE: Vendor will maintain such insurance as required in the ITB and as will protect him and the City from claims under Workmen's Compensation Acts and from claims for damage and/or personal injury, including death, which may arise from operations under this contract. Insurance will be written by companies authorized to do business in Jefferson County, Alabama. Evidence of insurance will be furnished to the Purchasing Agent upon request.

HOLD HARMLESS AND INDEMNIFICATION: Contracting party agrees to indemnify, hold harmless and defend the City, its elected officers and employees, and agents (hereinafter referred to in this paragraph collectively as “City”), from and against any and all loss expense or damage, including court cost and attorney’s fees, for liability claimed against or imposed upon the City because of bodily injury, death or property damage, real or personal, including loss of use thereof arising out of or as a consequence of the breach of any duty or obligations of the contracting party included in this agreement, negligent acts, errors or omissions, including engineering and/or professional error, fault, mistake or negligence of integrator, its employees, agents, representatives, or sub-Vendors, their employees, agents or representative in connections with or incident to the performance of this agreement, or arising out of Worker’s Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of the company and/or its sub-Vendors or claims under similar such laws or obligations. Company obligation under this Section shall not extent to any liability caused by the sole negligence of the City, or its employees. Before beginning work, contract party shall file with the City a certificate from his insurer showing the amounts of insurance carried and the risk covered thereby. Liability insurance coverage must be no less than \$1,000,000. During performance, the company must have in effect and maintain insurance from a company licensed to do business in the State of Alabama. Coverage required includes 1) Comprehensive General Liability; 2) Comprehensive Automobile Liability; and 3) Worker’s Compensation and Employer’s Liability.

STATEMENT OF COMPLIANCE WITH ALABAMA CODE SECTION 31-13-9: By signing this contract, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

COMPLETE CONTRACT: The above seventeen paragraphs or sections constitute the entire agreement. Any amendments or extensions must be made in accordance with the provisions stated herein.

THE GREATER BIRMINGHAM
HUMANE SOCIETY ANIMAL
CARE & CONTROL, LLC

CITY OF CLAY
A Municipal Corporation

Signature

Signature

Print

MAYOR

Title

Date

ATTEST: _____
CITY MANAGER



Resolution 2021-05

I, the undersigned City Manager of the City of Clay, Alabama, do hereby certify that the above and foregoing is a true copy of one Resolution lawfully passed and adopted by the City Council named therein, at a regular meeting of such Council, and that such resolution is on file in the City Clerk's Office.

I further certify that said Resolution was posted as required by State Law at the following locations: Clay Public Library; Clay City Hall; Clay Post Office and the Clay Seniors Center all being in the City of Clay.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this 23rd Day of February, 2021.

Ronnie Dixon
City Manager