



Legislation Details (With Text)

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Title: Approve the Second Amendment to the Animal Control Services Agreement between the City of Fresno and Fresno Humane Animal Services to allow the City to advance a second one-time payment of \$300,000 for a total of \$600,000 for future reimbursements (cash account.)

Sponsors: Office of Mayor & City Manager

Indexes:

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Attachments: 1. Second Amendment to Services Agreement

Date	Ver.	Action By	Action	Result
2/9/2023	1	City Council	ADOPTED	Pass

REPORT TO THE CITY COUNCIL

FROM: ALMA G. TORRES, Deputy City Manager
Office of Mayor & City Manager

SUBJECT

Approve the Second Amendment to the Animal Control Services Agreement between the City of Fresno and Fresno Humane Animal Services to allow the City to advance a second one-time payment of \$300,000 for a total of \$600,000 for future reimbursements (cash account.)

RECOMMENDATION

Staff recommends that the City Council approve the second amendment to the animal control services agreement between the City of Fresno and Fresno Humane Animal Services (FHAS) to allow the city to advance a second one-time payment of \$300,000 for a total of \$600,000 for future reimbursements (cash account.)

EXECUTIVE SUMMARY

In May of 2022, the city entered into a 14-month agreement with Fresno Humane Animal Services for the legally mandated animal control services and operation City’s Animal Center. The contract allowed for reimbursements of actual expenditures for services provided by FHAS. As a small non-profit, this process has created a cashflow issue for FHAS. In October of 2022, Council approved a one-time advance of \$300,000 to establish a cash account that would allow the organization to draw down reimbursements from this account until such time they receive reimbursement from the city for

actual expenses, those reimbursements are then used to replenish this cash account. Due to the growing activity levels at the Center, Fresno Humane has requested a second advance of \$300,000 which would bring the total cash account to \$600,000 to allow more flexibility in the timing for billing.

BACKGROUND

In May of 2022, the city entered into a 14-month agreement with Fresno Humane Animal Services to provide provided all animal control, pound master, veterinary and sheltering services, operation of the Animal Center facility and related activities authorized and required by applicable law including California Food and Agriculture Code sections 31105, 31106, California Penal Code section 597f and Fresno Municipal Code sections 10-301 to 10-329 to the City of Fresno (City). Under the term of this agreement FHAS agreed to provide their animal shelter operational expertise on an actual cost reimbursement basis until sufficient data is collected that aligns best operating practices with actual costs and allow for the development of a future comprehensive contract with maximum transparency and accountability. Additionally, this actual cost reimbursement approach ensures that it satisfies the requirements of the IRS Revenue Procedure 2017-13 applicable to the Use of Safe Harbor for Management Contracts due to the sites bond funding.

As a small not for profit organization, this reimbursement process has created a cashflow issue for FHAS as they must first expend cash balances prior to requesting reimbursements from the City. In October of 2022, Council approved the First Amendment to the contract that advanced the organization a total of \$300,000 in one-time funds. This has helped the organization mitigate the cashflow issues this reimbursement process is creating, however, as the operations at the Animal Center ramp up to keep up with demand, the amount allowed under the First Amendment is not sufficient to support the activity levels. Staff recommends Council approve the Second Amendment to the agreement allowing for the City to advance a second one-time payment of \$300,000 for future reimbursements (Cash Accounts). The total advance will be of \$600,000. Fresno Humane will continue to submit invoices to the City to support monthly actual expenditures, however, while a reimbursement is being processed by the City, the cash account will support the continuing operating expenses. When the City remits reimbursements for these actual expenditures, the cash account will be replenished. Upon the expiration of the current agreement, any balances will be remitted to the City or applied to future contracts.

This amendment does not change any of the terms of the agreement. Additionally, Tax Counsel has advised that the additional language in the First Amendment does not convert the agreement into a management agreement and continues to comply with IRS revenue Procedure 2017-13. This second amendment continues to maintain the same language as the First Amendment.

ENVIRONMENTAL FINDINGS

This is not a project under California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378.

LOCAL PREFERENCE

Fresno Humane is considered local pursuant to Fresno Municipal Code Sec. 4-109.

FISCAL IMPACT

The FY 2023 Adopted Budget includes sufficient appropriations to fund this amendment.

Attachment:

Second Amendment to Services Agreement