



MEMO

District of Highlands
Administrations Department
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To: C. D. Coates, CAO File: Animal and Bylaw Agreement File
From: Tina Neurauter
Date: February 24, 2010
Subject: **CRD Animal and Bylaw Control Services Agreements**

BACKGROUND

The District has contracted Animal and Bylaw services with the Capital Regional District since its incorporation. Our current contract with the Capital Regional District for these services expired in December 2009. We are currently in receipt of new agreements from the Capital Regional District for these services. These agreements run for a 3 year term, expiring in December 2012. There are no suggested changes to our current services.

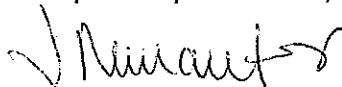
Cost of animal control is formula based and defined in contract as: Highlands' share of the total costs to the CRD of the services, net or revenue generated by the services, apportioned on the basis of net taxable value of land and improvements for Regional Hospital District purposes and determined as if the Highlands was a participant in the CRD Animal Control function. In 2009 the District was billed a total of 366.75 patrol hours for Animal Control. Don Brown, Manager, Bylaw and Animal Care Services has provided to the District a copy of the Animal Control Services document, this document is available at the office for viewing.

Council should be aware that the new proposed rate for Bylaw Enforcement is \$72 per hour. This is an increase of \$3 from our previous contract. The District is billed a minimum of 90 hours of service per year.


RECOMMENDATION:

That Council approve the agreements for Animal Control and Bylaw Enforcement Services with the Capital Regional District and that the Mayor and Corporate Officer be authorized to execute the agreements.

Respectfully submitted,


Tina Neurauter,
A/ Corporate Officer

CAO Concurrence


C.D. Coates,
Chief Administrative Officer

Attachments

ANIMAL CONTROL SERVICES AGREEMENT

This Agreement dated for reference the _____, 20

BETWEEN:

CAPITAL REGIONAL DISTRICT
P.O. Box 1000
625 Fisgard Street
Victoria, B.C. V8W 2S6

(the "CRD")

OF THE FIRST PART

AND:

DISTRICT OF HIGHLANDS
1980 Millstream Road
Victoria, B.C. V9B 6H1

("the Highlands")

OF THE SECOND PART

WITNESSES THAT WHEREAS:

- A. A local government may make and enforce regulations in relation to animals;
- B. A local government may enter into an agreement with another public authority respecting enforcement of regulations enacted by a party to the agreement;
- C. The Highlands and the CRD wish to enter into an agreement for the enforcement of the Highlands Animal Control Bylaw by the CRD;

NOW THEREFORE in consideration of the premises and the terms and conditions hereinafter contained, the sufficiency of which is hereby acknowledged by both parties, the CRD and the Highlands covenant and agree each with the other as follows:

1.0 DEFINITIONS

1.1 In this Agreement,

"Bylaw" means CRD Bylaw No. 1465 "Animal Control and Impounding Bylaw, No. 1, 1986".

“Costs” means the Highlands’ share of the total costs to the CRD of the services, net or revenue generated by the services, apportioned on the basis of net taxable value of land and improvements for Regional Hospital District purposes and determined as if the Highlands was a participant in the CRD Animal Control function.

“Services” means the enforcement and administration of the Bylaw (the administration and marketing of dog licenses and including without limitation the following work, carried out and delivered to the equivalent level of similar services provided by the CRD within the municipalities and electoral areas in which it provides such work:

- (a) in accordance with the Bylaw and all other applicable enactments, the seizure, impounding and destruction of cats, dogs and other domestic animals in the Highlands that come to the attention of the Animal Control or Bylaw Enforcement Officers of the CRD, which are at large, or in other circumstances authorized by the Bylaw or other applicable legislation or regulations;
- (b) the full range of enforcement activities under the Bylaw including, but not limited to regular patrol of streets, parks and other public areas within the Highlands, complaint response, emergency call-out and police assistance.

2.0 TERM

- 2.1 This Agreement is for a term commencing 12:00 AM, January 1, 2010, and terminating at 11: 59 PM on December 31, 2012, together with a right of renewal for 2 additional years pursuant to Section 3.

3.0 RENEWAL

- 3.1 The Highlands shall have the right to renew this Agreement, and this Agreement shall be deemed to be automatically renewed for 2 additional years for the calendar years 2013 to 2014, inclusive, unless either party has given the other notice of termination pursuant to Section 4.

4.0 TERMINATION

- 4.1 By notice in writing delivered to the other party not later than September 30, 2012, either the CRD or the Highlands may elect not to renew this Agreement.

5.0 AMENDMENT

- 5.1 Unless otherwise agreed by the parties, amendments to the terms and conditions of this Agreement proposed by either party to take effect January 1

of any renewal term shall be requested by so notifying the other party in writing not later than September 30 of the preceding year.

6.0 CRD COVENANTS

- 6.1 For the purposes of this Agreement, and in consideration of the Costs paid or agreed to be paid by the Highlands pursuant to Section 1.1, the CRD shall provide the Services to the Highlands in a competent, careful and professional manner, and shall without limitation:
- (a) maintain an office within the Capital Regional District which is open to the public during normal business hours for inquiries relating to the Services;
 - (b) for the purpose of the poundkeeper component of the Services, maintain a pound facility in a location approved by the host local government, which facility and the operation thereof shall be and remain in compliance with all applicable regulations, bylaws and other enactments, and in particular shall be maintained in a sanitary condition providing for humane treatment of the animals impounded;
 - (c) administer and enforce the Bylaw including without limitation any required court appearances and legal proceedings generally, engaging the professional legal counsel which may be required in connection therewith, and shall exercise the enforcement authority contained within the Bylaw for and on behalf of the Highlands, except for any powers that remain to be exercised exclusively by the Highlands pursuant to this Agreement or statute or common law applicable to local government;
 - (d) account for and retain all revenue from impoundment fees, violation fees, municipal ticket information fines, fees from sale of animals, and fine and court costs recovered through enforcement of the Bylaw;
 - (e) keep a detailed record of accounts and activities in relation to the Services; prepare and deliver to the Highlands not less than quarterly a report including the following information:
 - number of tickets, offence notices and warning notices issued;
 - number of animals impounded;
 - impoundment, boarding and ticket fine revenues received; and
 - number and types of complaints received; and
 - number of hours spent on patrols in the Highlands.including such information for both the reporting period and the year-to-date;
 - (f) comply with reasonable instructions from the Highlands with respect to the provision of the Services, including requests for special

attention to particular geographical areas as required from time to time;

- (g) pursue on the Highlands' behalf any civil remedy i.e dog destruction orders, injunctions or civil proceedings authorized by resolution of the Highlands council;
- (h) obtain proof that a current Highlands license has been obtained and paid for before releasing any impounded dog;
- (i) maintain a monthly pound log in which shall be recorded, on a daily basis, all pound-related transactions, including a description of every animal impounded, the date and place where the animal was impounded, the date when the animal was redeemed or otherwise disposed of, the disposition of the animal and the amount of money, if any, recovered in respect of the animal;
- (j) maintain a monthly record of any reported dog bites which have occurred in that month, including information concerning the severity of the bite, the breed of the dog, the name and address of the dog owner if known, the name of the person bitten and the details of any charges under the Bylaw;
- (k) ensure that CRD Animal Control and Bylaw Enforcement Officers are thoroughly informed of the provisions of the Bylaw and also the fine levels and offence descriptions set out in the Highlands Ticket Information Utilization Bylaw;
- (l) allow officers and employees of the Highlands, at all reasonable times, access to all records, books and documents maintained by the CRD under this Agreement; and
- (m) provide after hours emergency call-out service for serious incidents, including assistance to the the Highlands police service, attacks by dogs on people or animals, injured animals and unusual situations deemed to involve public safety in relation to domestic animals.
- (n) administer the CRD dog license system including the sale of licenses, bearing all costs and receiving and retaining all revenues.

7.0 THE HIGHLANDS COVENANTS

7.1 In consideration of the performance by the CRD of the Services, the Highlands shall pay the cost of the services as defined in Section 1.1 above, and in addition shall:

- (a) hereby designate the Chief Administrative Officer of the Highlands, and in his absence the Municipal Clerk of the Highlands, as the

primary contact with CRD staff with respect to the Services. The parties acknowledge that the intent of this provision is to avoid unnecessary duplication of effort by the CRD, as well as conflicting instructions from the Highlands to the CRD. Other officers or employees of the Highlands, including members of the Municipal Council, may contact the CRD Chief Bylaw Enforcement Officer directly but only for the purpose of making inquiries and not to give direction.;

- (b) appoint those persons designated by CRD to enforce the Bylaws as authorized officers under section 268 of the Local Government Act;
- (c) pay over to the CRD, within thirty (30) days of receipt by the Highlands from the Provincial Court Registry or directly from the offender, fine and court costs recovered through enforcement of the Bylaw by the CRD.

8.0 MUTUAL INDEMNIFICATION

- 8.1 Except to the extent that a claim, loss, action, suit or demand, and legal fees and expenses associated therewith, is a result of a party's negligence or breach of its obligations under this Agreement, the other party shall indemnify and hold harmless the first mentioned party and its officers, employees and contractors from and against all such claims, losses, actions, suits, demands, fees and expenses arising out of this Agreement.

9.0 INSURANCE

- 9.1 The CRD through its self-insurance program, and the Highlands through the Municipal Insurance Association of British Columbia, shall each maintain sufficient liability coverage to meet its indemnification obligations under Section 8, and more particularly in the case of Highlands shall maintain liability insurance coverage in an amount not less than Two Million Dollars (\$2,000,000.00) per single occurrence, with the CRD to be added as an additional insured as defined in the Municipal Insurance Association Liability Protection Agreement. In the event that the CRD ceases to be self-insuring, it shall meet the same liability insurance policy requirements assumed by Highlands under this Agreement, with the necessary changes and as applicable.
- 9.2 Neither party shall cancel or materially change its insurance coverage without first providing the other with thirty (30) days written notice thereof.
- 9.3 Any liability insurance required hereunder must contain cross liability coverage in the event that both parties claim coverage under the same policy.

10.0 CONTRACTOR STATUS

- 10.1 The parties agree that the CRD is an independent contractor engaged by the Highlands for the sole purpose of providing the Services. Neither the CRD nor any of its personnel is engaged by the Highlands as an employee, servant or agent. The CRD is solely responsible for payment of Workers Compensation premiums and compliance with all WCB Regulations, and shall bear sole responsibility for the safety of its officers and employees and any costs whatsoever arising out of employee injuries or claims records. The CRD shall make all payroll payments or deductions required by law or collective agreement. Nothing in this Agreement shall be construed as creating an agency, partnership or joint venture between the Highlands and the CRD.

11.0 REFERENCE TO CRD

- 11.1 The CRD agrees to permit the use of its name and bylaw enforcement office telephone number and address in any Highlands notices and advertising relating to animal control.

12.0 SETTLEMENT

- 12.1 The parties acknowledge that they have a common goal of providing public service and will attempt to settle any differences arising in the administration of this Agreement amicably through discussion in good faith with a view to providing quality public service at a reasonable cost.

13.0 NOTICE

- 13.1 Unless otherwise specified herein, any Notice required to be given hereunder by any party shall be deemed to have been well and sufficiently given if mailed by ordinary mail, faxed to or delivered at the address of the other party set forth on the first page of this Agreement or at such other address as the other party may from time to time direct in writing, and any such Notice shall be deemed to have been received if mailed seventy-two (72) hours after the time of mailing and, if faxed or delivered, upon the date of faxing or delivery.

14.0 ASSIGNMENT

- 14.1 This Agreement is not assignable by either party without the express written consent of the other.

15.0 POLICE AUTHORITY

- 15.1 Nothing in this Agreement shall operate so as to prevent, limit or derogate from the authority of a municipal police officer to take enforcement action under the Bylaw, in which case revenues from any violation fees, municipal

ticket information fines or other pecuniary penalties or assessments shall be retained by the Highlands.

16.0 BINDING EFFECT

16.1 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors and permitted assignees.

IN WITNESS WHEREOF the Parties hereto have caused these presents to be executed the day, month and year first above written.

The Corporate Seal of THE DISTRICT)
OF THE HIGHLANDS was hereunto)
affixed in the presence of:)

_____)
Authorized Signatory)

_____)
Authorized Signatory)

c/s

Executed on behalf of the **CAPITAL**)
REGIONAL DISTRICT)
by its authorized signatures on this)

15 day of January, 2010)


_____)
Authorized Signatory)

_____)
Authorized Signatory)

Term

1. This agreement is for a term of three (3) years commencing on the 1st day of January, 2010, and terminating on the 31st day of December, 2012, together with the right of renewal for four additional terms of one year pursuant to Section 2 of this Agreement.

Renewal

2. (a) This agreement may be renewed for two (2) additional year terms for the calendar years of 2013 to 2014 respectively and will be deemed to be renewed in respect of each of those years, unless the Highlands or the CRD gives notice of non renewal pursuant to Section 3 of this Agreement.

Termination

3. CRD or the Highlands may give notice of non-renewal and termination of this Agreement and services provided under it effective the 31st day of December of the year in which notice is given by notifying the other party in writing on or before the 31st day of October of that year.

CRD Covenants

4. (1) For the purposes of this Agreement "services" means the enforcement in the Highlands of bylaws of the Highlands, except Animal Control Bylaw No. 1465.

(2) CRD shall:
 - (a) provide the services from its offices at 212 - 2780 Veterans Memorial Parkway, Langford;
 - (b) upon request enforce the Bylaws according to the policies of Council, and shall exercise the powers contained within the Bylaws for and on behalf of the Highlands, except any powers that are solely within the authority of the Council of the Highlands;
 - (c) provide the services to the Highlands in a competent, careful and professional manner; and
 - (d) pay to the Highlands all monies from fines and Court costs recovered from the enforcement of the Bylaws.

The Highlands Covenants

5. The Highlands shall:

- (a) pay to CRD for the Services, the sum of \$74 per hour or portion of an hour spent by a CRD Bylaw Enforcement employee in the performance of the services for the year of the Agreement. For each year that the Agreement is renewed, the hourly rate is to be determined by the CRD.
- (b) pay for a minimum of 90 hours of service per year which will include a meeting at least every quarter between the Highlands Chief Administrative Officer (or designate), and the Capital Regional District Chief Bylaw Officer (or designate);
- (c) pay to CRD the amount under clause (a) within 30 days of receiving an invoice from the CRD;
- (d) pay any and all legal fees, consultant fees and court costs associated with the provision of the Services;
- (e) designate its Clerk/Administrator, subject to direction by the Highlands Council by Resolution, as the primary contact with CRD staff with respect to the Services. This will avoid unnecessary duplication of effort by CRD staff, as well as conflicting instructions from the Highlands to CRD. It is understood and agreed by the Highlands that individual Councilors may contact the CRD Chief Bylaw Enforcement Officer directly but only for enquiry purposes and not to give direction; and
- (f) appoint those persons designated by CRD to enforce the Bylaws as authorized officers under Section 268 of the *Local Government Act*.

Indemnity

6. (1) The Highlands shall release, discharge, indemnify and save harmless CRD from and against any claims, causes of action, suits, demands, expenses, costs and legal fees whatsoever which may arise out of:

- (a) the provision of the services by CRD and;
- (b) failure by the Highlands to enforce the provisions of the Bylaws or any one of them.

Except those which arise out of the negligent acts or omission of CRD, its officer, employees or contractors.

Insurance

7. (1) The Highlands shall:
- (a) take out and maintain, during the term of this agreement, liability insurance to cover the indemnity given to CRD in Section 6 of this Agreement, in the amount of not less than Two Million (\$2,000,000.00) Dollars per single occurrence, naming CRD as an insured party thereto, and shall provide CRD with a certified copy of the policy;
 - (b) the policy of insurance under subclause (a) shall contain a waiver of subrogation clause in favour of CRD and shall also contain a clause requiring the insurer not so cancel or change the insurance without first giving CRD thirty (30) days prior notice and;
 - (b) if both the Highlands and CRD have claims to be indemnified under any insurance required by the agreement, apply the insurance proceeds first to the settlement of the claim of CRD and the balance, if any, to the settlement of the claim of the Highlands.

Limits on Liability

8. The Highlands and CRD acknowledge and agree that
- (a) CRD is liable only for services rendered by CRD in a negligent manner, for advice negligently given or given in error, or failing to give advice that should have been given.
 - (b) The Highlands is liable only for failure to enforce any of the Bylaws as for matters arising out of the amendment of any of the Bylaws or the enactment of any replacement Bylaw for which Services are provided by the CRD.

Binding Effect

9. This agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the Parties hereto have caused these presents to be executed the day, month and year first above written.

The Corporate Seal of THE DISTRICT OF HIGHLANDS was hereunto affixed in the presence of:

Authorized Signatory

Authorized Signatory

c/s

Executed on behalf of the CAPITAL REGIONAL DISTRICT

by its authorized signatures on this

24th day of December, 2010



Authorized Signatory

Authorized Signatory

AGREEMENT AUTHORIZATION

	Initial	Date
Content	DR	22 DEC 2009
Legal Form		
Authority		