

12/17/02

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE MAYOR'S ALLIANCE FOR N.Y.C.'S ANIMALS, INC.
AND
THE CITY OF NEW YORK
ON
ISSUES CONCERNING ANIMAL CARE AND CONTROL
IN NEW YORK CITY

12/17/02

This Memorandum of Understanding (“MOU”), made and entered into between the Mayor’s Alliance for N.Y.C.’s Animals, Inc. (the “Alliance”) and the City of New York (the “City”), represents an agreement regarding the creation of solutions to issues concerning companion animal care and control in New York City.

WHEREAS, the Alliance has been formed and organized as a not-for-profit corporation for the purpose of establishing a public-private partnership with the City to develop creative approaches to issues concerning companion animal care and control in New York City, and to raise public awareness of these issues by bringing together not-for-profit animal care organizations to find homes for adoptable abandoned animals and promote the spaying/neutering of such animals; and

WHEREAS, the Alliance and the City wish to act in a spirit of mutual cooperation to establish an effective program for facilitating a City-wide animal adoption network to reduce the demand for animal control services; and

WHEREAS, the City has an obligation, through the Department of Health and Mental Hygiene (“the Health Department”), to provide, or contract for the provision of, animal control functions; and

WHEREAS, the Health Department contracts for the provision of animal control functions with the Center for Animal Care and Control, Inc. (“CACC”); and

WHEREAS, the Alliance is well positioned to work with the animal care community to locate, identify and provide homes for adoptable animals that are found to be homeless, to seek and obtain private funding for animal care programs, and to provide the City with a productive forum for discussions about animal care and control issues; and

12/17/02

WHEREAS, the City believes it can minimize the demand for the animal control function by maximizing the use of an expanded animal adoption program, while continuing to implement spay-neuter policies; and

WHEREAS, the size of the homeless animal population, as well as current severe City budget constraints, make it appropriate for the City to partner with organizations within the animal care community through the Alliance; and

WHEREAS, pursuant to this MOU, CACC may become a participating organization in the Alliance; and

WHEREAS, it is the intention of the parties to commit to both animal adoption and the implementation of an aggressive spay/neuter program as the two principal means of reducing the demand for animal control services, including the goal of reducing the use of euthanasia to control the unwanted animal population, the parties seek to implement a joint program for an initial five-year period;

NOW, THEREFORE, the Alliance and the City, agree as follows:

1. Alliance Goals and Objectives

- a. Because a primary objective of the Alliance is the creation of a City-wide adoption network, the Alliance will strive to enlist the active participation of all City animal care organizations that meet the terms of participation set forth in a document attached hereto as Attachment A of this MOU.
- b. If the Alliance plans to revise or otherwise change one or more of the terms of participation contained in Attachment A, it will advise the Health Department in writing at least thirty days prior to the effective date of such changes, and the Department shall review and approve or disapprove such changes within a reasonable time of having received such

12/17/02

notification. No such changes shall be effective in the absence of the written approval of the Health Department.

c. As a member of the animal care community with the highest number of adoptable animals, CACC shall participate with the Alliance pursuant to the terms of participation attached hereto as Attachment B of this MOU, and in accordance with applicable law.

d. If the Alliance and CACC plan to revise or otherwise change one or more of the terms of Attachment B, they will notify the Health Department in writing at least thirty days prior to the effective date of such changes, and the Department shall review and approve or disapprove such changes within a reasonable time of having received such notification. No such change shall be effective in the absence of the written approval of the Health Department.

2. Cooperative Framework

a. The Mayor's Office and the appropriate City agencies will work with the Alliance to obtain approval from such agencies having the jurisdiction to provide access to and use of City-owned space for adoption and/or fundraising efforts. Subject to agencies' approval, such initiatives may include, but not be limited to:

i. Identifying City-owned spaces, under the jurisdiction of the Department of Citywide Administrative Services and the Department of Parks and Recreation, for adoptions and fundraising events, subject to all applicable law, rules and regulations, in areas that are suitable for public gatherings and experience heavy pedestrian traffic (e.g., that can accommodate tents or kiosks). All determinations made regarding the identification and use of any such City-owned spaces shall be in the sole discretion of the City.

ii. Encouraging the private sector to provide open spaces, such as large stores or office buildings.

12/17/02

iii. Assisting the Alliance in applying to the Department of Transportation for a limited number of yearly parking permits, to be issued subject to applicable laws and rules, for adoption and veterinary service vans, used and registered by Alliance participants, provided such vans are essential to the performance of the organizational functions of the participants.

iv. Assisting the Alliance in applying to the Department of Transportation and the New York City Police Department for limited one-day event restricted curbside parking in proximity to the Alliance's particular special events.

b. The Mayor's Office and appropriate City agencies will work with the Alliance and other governmental agencies to facilitate publicity efforts with respect to the programs initiated by the Alliance and the City. Such initiatives may include, but not be limited to:

i. Facilitating the making of advertising spaces available on subways, busses, and billboards for use by the Alliance, subject to applicable laws, rules and regulations, to promote the adoption, solicitation of private funding, volunteering and spay-neutering programs undertaken by the Alliance and the City, by collaborating with appropriate City, other governmental and private transportation entities and property owners.

ii. Inserting flyers in paychecks or other mailings issued by the City, seeking to promote the adoption, solicitation of private funding, volunteering and spay-neutering programs undertaken by the Alliance and the City.

iii. Encouraging private sector individuals and organizations to become sponsors of the adoption, solicitation of private funding, volunteering and spay-neutering programs undertaken by the Alliance and the City.

3. Evaluation and Duration of MOU

a. Not later than three months after the end of the initial twelve-month period of the MOU, the Mayor's Office of Operations shall complete an evaluation of the first year of the

parties' programs that are set forth in this MOU. Such evaluation shall be completed thereafter on an annual basis. In conducting such evaluations, the Mayor's Office of Operations shall seek the participation of the Committee on Legal Issues Pertaining to Animals of the Association of the Bar of the City of New York.

b. After consideration of the evaluation completed after two years of the existence of this MOU, the City or the Alliance may terminate the program set forth in this MOU, effective on a mutually agreeable date, upon sixty days written notice by either party to the other.

c. Either party may terminate the program set forth in this MOU, for any other reason, prior to the evaluation that will be completed after two years of the existence of this MOU, upon 60 days written notice by either party to the other.

d. In the event of a termination of the program pursuant to subdivision (b) or (c) of this section, the parties shall make all necessary arrangements with respect to publicity, programs, funding and other pending matters, including changing the name of the Alliance to eliminate reference to the Mayor.

4. General

a. Nothing in this MOU shall be construed to limit or affect the powers and duties of the Health Department pursuant to Chapter 22 of the New York City Charter, Administrative Code, rule, or other applicable law, or to limit or abrogate the power and duty of the Health Department to take all steps necessary or appropriate to fulfill its animal control functions in the City.

b. Nothing in this MOU shall be construed to limit or affect the powers and duties conferred upon any other City agency pursuant to the New York City Charter, Administrative Code, rule or other applicable law.

12/17/02

c. This MOU is not intended nor shall it be construed to create any rights or benefits in any third parties.

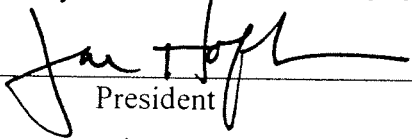
d. The parties to this MOU agree that this MOU shall be construed in a manner consistent with federal, state and local laws and regulations.

e. This MOU may be amended from time to time only by written agreement of the parties.

Agreed to as of December 24, 2002

Mayor's Alliance for N.Y.C.'s Animals, Inc.

By:

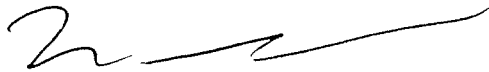


President

Attest:



Secretary



Deputy Mayor for Operations

MAYOR'S ALLIANCE FOR NYC'S ANIMALS, INC.

TERMS OF PARTICIPATION FOR ANIMAL CARE COMMUNITY ORGANIZATIONS

The following terms of participation shall be applicable to animal care organizations which participate ("Participants") in the programs overseen by the Mayor's Alliance for NYC's Animals (the "Alliance")

An application for Participation is attached for completion and submission to the Alliance.

1. Must be a tax-exempt corporation (incorporated and having been approved for Internal Revenue Code § 501(c) (3) status).
2. Must rescue and place animals from and in New York City.
3. Must keep and provide statistics on intake, adoptions and/or spay and neuter on a monthly basis. The Alliance will provide to each Participant a standard form for the recording of such statistics. These statistics will be for the sole purpose of preparing grant applications, including Maddie's Fund grant applications, and will not be shared with other Participants.
4. Must agree not to purport to speak on behalf of the Alliance. The Alliance will not take positions on legislative, regulatory and/or political issues although Participants in their individual capacity may do so.
5. Must maintain regular adoption and/or spay and neuter programs.
6. Must be willing to have its shelter or locations of foster care network assessed by a representative of the Alliance.
7. Must be willing to comply with the following Animal Care Standards:
 - _ All cats and dogs must be spayed or neutered (unless determined by a veterinarian to be medically contraindicated);
 - _ All cats must be tested for FIV and leukemia and fully vaccinated (exceptions will be made for feral cat colony caregivers);
 - _ All dogs must be tested for heartworm and fully vaccinated;
 - _ All animals must be fed, housed and exercised appropriately for their species.

8. Must comply with the following Animal Adoption Standards:

All animals (if appropriate to their species) must be spayed or neutered prior to adoptions;

All animals adopted out must be taken back by the Participant at any time after the adoption if requested to do so by the adopter;

All participants must provide a copy of the adoption application and/or agreement they are using as well as their protocol for checking references. Such adoption application and/or agreement must contain certain terms and conditions and the Participant must follow certain protocols when checking references. The Alliance, upon request, will provide a standard adoption application and/or agreement and protocols to those Participants not currently using an adoption application and/or an agreement or using an adoption application and/or agreement that does not contain the required terms and conditions and/or not following the required protocols.

9. Must comply with the following Group Adoption Event Standards:

All dogs and cats offered for adoption must either have been rescued in or from New York City or have been taken from of the Center for Animal Care and Control;

Must maintain or otherwise be covered by appropriate liability insurance, if obtainable;

Must remove any animal that presents aggressive behavior;

Must bring an appropriate number of volunteers/employees: at least two people to supervise tabling effort and one volunteer per leashed dog;

Must bring all necessary equipment, furniture and items (including, *e.g.*, tables and chairs, crates and carriers, water bowls, water, food, treats, leashes) unless specifically told that these items will be made available at the site to all participants;

Volunteers/employees must be easily identifiable, *e.g.*, wear tee shirts with group name and logo, name tags, etc.;

Must arrive on time, stay until the end of the event and help clean up after the group adoption event ends.

10. Must agree to Dispute Resolution for Animal Care Community Participants and Funding Allocation Procedures attached hereto.

**Memorandum of Understanding
by and between
the Mayor's Alliance for NYC's Animals
and
the Center for Animal Care and Control, Inc.**

WHEREAS, the Mayor's Alliance for NYC's Animals (the "Alliance") has been formed and organized for the purpose of establishing a public-private partnership with the City to develop creative approaches to issues concerning companion animal adoption in New York City (the "City"), and to raise public awareness of these issues by bringing together not-for-profit animal care organizations to find homes for adoptable abandoned animals and promote the spaying/neutering of such animals; and

WHEREAS, the City and the Alliance have entered into a Memorandum of Understanding, dated as of December 24, 2002 (attached hereto as Exhibit 1) (the "City MOU"), to facilitate a working relationship between the City and members of the animal care community that participate in the Alliance ("Participating Organizations"), for the purpose of minimizing to the greatest practicable extent the euthanization of healthy, but homeless, abandoned dogs and cats in New York City; and

WHEREAS, the City contracts with the Center for Animal Care and Control, Inc. ("CACC") for the performance of the City's animal care and control obligations under State and local laws; and

WHEREAS, under the City MOU CACC may become a Participating Organization in the Alliance, subject to the terms and conditions in this Memorandum of Understanding, by and between the Alliance and CACC, which Memorandum of Understanding is Attachment B to the City MOU; and

WHEREAS, the Alliance and the CACC desire to minimize, to the greatest practicable extent, the euthanization of healthy but homeless, abandoned dogs and cats ("animals") in New York City (the "City"); and

WHEREAS, the Alliance and CACC desire to establish and maintain a cooperative and productive working relation to further such objective; and

THEREFORE, the Alliance and CACC have entered into this Memorandum of Understanding, setting forth their respective obligations as follows:

Section I. *Statement of Respective Roles.*

The Alliance and CACC acknowledge their different, but mutually supportive, roles with respect to the management of companion animal issues in the City and the care and placement of stray and owner-relinquished animals in the City.

A. CACC's Role in Animal Control. CACC contracts with the City to perform certain of the City's animal control obligations under law. Such obligations include, but are not limited to:

1. Addressing public safety issues with respect to animals in the City including the pick up of dogs and other animals at large on the streets of the City;
2. Providing facilities for receiving the all stray and the majority of owner-relinquished animals in the City;
3. Providing humane care for animals in its shelters;
4. Providing adoption services for adoptable animals in its care;
5. Sheltering animals not immediately available for adoption due to statutory holding periods or legal actions, including holding dangerous animals and animals within the jurisdiction of the New York City Police Department (NYPD); and
6. Performing euthanasia on animals that are dangerous, not healthy, not adoptable or not adopted, or that require rabies testing, within statutory periods of time.

B. Alliance's Role in Animal Care. The volume of animals received by CACC exceeds CACC's capacity, from time to time, to adopt these animals before it must euthanize them to accommodate the resource needs imposed by CACC's control obligations. The Alliance was formed to create a city-wide network of resources of private not-for-profit animal humane organizations able and willing to facilitate and increase the adoption of animals from CACC.

Section II. *Development of Protocol between Alliance and CACC.*

The Alliance and CACC agree to develop an Operational Protocol to implement the terms of this Memorandum of Understanding (the "Operational Protocol"). The Alliance and CACC agree that the Operational Protocol shall be finalized no later than 90 days after this Memorandum of Understanding is signed and shall include provisions that cover the following:

A. Access by Alliance Participating Organizations to CACC facilities for the purpose of Alliance Participating Organizations receiving CACC animals through the following activities:

1. Identifying specific CACC staff member(s) to be contacted by Alliance Participating Organizations, who will communicate with Alliance

Participating Organizations and coordinate transfers of animals to Alliance participant members during CACC's normal adoption hours;

2. Holding such meetings with Alliance Participating Organizations as may be necessary and outlining CACC's operational features to facilitate Alliance Participating Organizations' understanding of them, including:

a. animal intake process and extent to which CACC staff develop informational profiles of animals,

b. standards CACC staff use to evaluate animals, generally and in particular with respect to behavior and treatability, and

c. data management technology and practice with respect to photographing animals as well as ability to link with Alliance Participating Organizations' data management systems to facilitate transfer of CACC animals.

3. Developing and communicating policies and procedures for distributing CACC cats and dogs among Alliance Participating Organizations and the CACC Pet Partners who are not Alliance Participating Organizations, and for viewing and selecting CACC animals, which policies and procedures may include:

a. the requirement that Alliance Participating Organizations qualify as CACC-designated Pet Partners and adhere to the terms of CACC's Pet Partners Program;

b. an ability for Alliance Participating Organizations to view and select CACC animals, including those animals considered difficult to place;

c. an ability for Alliance Participating Organizations to take CACC animals before they are altered so long as they qualify for and participate in CACC's Agent Agreement Program; provided, however, that CACC and the Alliance agree that, in the circumstances set forth in the Operational Protocol, the Alliance Participating Organizations will reimburse CACC for actual costs expended by CACC for medical and microchipping services on animals received from CACC;

d. an ability for Alliance Participating Organizations to participate in volunteer activities at CACC.

B. The participation by CACC in adoption events sponsored by the Alliance, subject to mutually agreed upon standards of participation and resources available to CACC and the Alliance.

C. The provision of available statistics by CACC to the Alliance to permit the Alliance to apply for various private grants, including Maddie's Fund, on behalf of Alliance Participating Organizations including CACC. Such statistics shall include publicly available data required to be submitted to the City pursuant to CACC's contractual obligations.

D. Giving the same value to transferring a CACC animal to an Alliance Participating Organization as a CACC adoption to the public for the purpose of all CACC statistics, in such documents as the monthly report from CACC to the City Council pursuant to Section 17-805 of the Administrative Code of the City of New York.

Section III. *Resolution of Disputes between Alliance Participating Organizations and CACC.*

In the event any Alliance Participating Organization asserts to the Chair of the Alliance that CACC has not complied with a provision of the Operational Protocol, the Chair of the Alliance shall immediately notify, by telephone to be followed by a writing, CACC's Executive Director of such assertion and shall begin an investigation of such assertion. CACC shall have thirty (30) days to refute or set forth in writing its position regarding such assertion. If, after the thirty (30) day period, CACC has not refuted and the Chair of the Alliance has not resolved the matter, the Chair of the Alliance and CACC shall refer the matter for resolution to the Office of Administrative Trials and Hearings of the City of New York ("OATH"), in accordance with the authority delegated to OATH by the Commissioner of the Department of Health and Mental Hygiene ("DOHMH").

It is expected that the parties shall come to a mutually satisfactory agreement regarding the dispute through OATH's mediation. However, in the event that the parties cannot agree, an OATH administrative law judge ("ALJ") will be requested to take such testimony and documentary evidence as the ALJ deems necessary and shall thereafter submit a report and recommendation to the Deputy Commissioner for Environmental Health of DOHMH. The Deputy Commissioner's decision shall be a final determination of the dispute, binding upon the Alliance and the CACC.

Section IV. *Evaluation and Duration.*

If and when the City MOU is terminated pursuant to Section 3 thereof, either the Alliance or CACC may terminate this Memorandum of Understanding and the program(s) established pursuant to this Memorandum of Understanding. In the event of a termination of the program(s) pursuant to this Memorandum of Understanding, the Alliance and CACC shall make all necessary arrangements with respect to publicity, programs, funding and other pending matters.

Section V. General Provisions.

A. Nothing in this Memorandum of Understanding shall be construed to limit or affect the powers and duties of CACC or DOHMH pursuant to Chapter 22 of the New York City Charter, the Administrative Code, rule, or other applicable law, or to limit or abrogate the powers of CACC or DOHMH to take all steps necessary or appropriate to fulfill CACC's animal control or DOHMH's public health duties in the City.

B. Nothing in this Memorandum of Understanding shall be construed to limit or affect the powers and duties conferred upon any other City agency pursuant to the New York City Charter, Administrative Code, rule or other applicable law.

C. Nothing in this Memorandum of Understanding shall commit either party to any financial obligations to the other, except as expressly stated above regarding the costs of services provided by CACC for animals removed by other Alliance members from CACC premises.

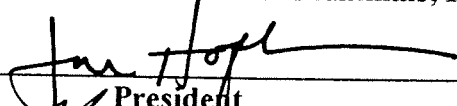
D. This Memorandum of Understanding is not intended nor shall it be construed to create any rights or benefits in any third parties.

E. The Alliance and CACC agree that this Memorandum of Understanding shall be construed in a manner consistent with federal, state and local laws and regulations.

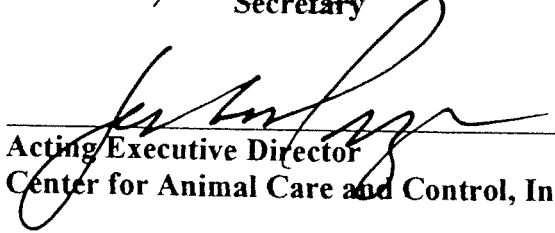
F. This Memorandum of Understanding may be amended from time to time only by written agreement of the Alliance and CACC.

Agreed to as of 12/24/02

Mayor's Alliance for N.Y.C.'s Animals, Inc.

By: 
President

Attest: 
Secretary


Acting Executive Director
Center for Animal Care and Control, Inc.