



**Roll Call Number**

**Agenda Item Number**

56 A

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**Date** April 23, 2018

AFFIRMING HEARING OFFICER'S REPORT OVERRULING APPEAL OF FURRY FRIENDS REFUGE RE RFP EVALUATION AND SELECTION COMMITTEE RECOMMENDATION FOR AWARD OF CONTRACT FOR ANIMAL CONTROL AND SHELTER SERVICES AND AWARD OF CONTRACT TO ANIMAL RESCUE LEAGUE OF IOWA, INC. AND APPROVING AWARD OF CONTRACT TO ANIMAL RESCUE LEAGUE OF IOWA, INC. AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT FOR THE PROVISION OF SAME

WHEREAS, the City of Des Moines desires to enter into a long-term agreement with a vendor to provide a replacement primary animal shelter, operation of the animal shelter, and animal control services; and

WHEREAS, on October 11, 2017 the Procurement Division of the Finance Department issued a Request for Proposals (V18-024) for Animal Control and Shelter Services to two (2) potential vendors and received (2) proposals in response; and

WHEREAS, the Evaluation and Selection Committee has reviewed the proposals and has recommended the proposal submitted by the Animal Rescue League of Iowa, Inc., Tom Colvin, President, 5452 NE 22<sup>nd</sup> St., Des Moines, IA 50313; and

WHEREAS, an appeal of the Evaluation and Selection Committee's recommendation was filed by Furry Friends Rescue, 1211 Grand Avenue, West Des Moines, IA 50265, ("the Furry Friends Appeal"); and

WHEREAS, such Furry Friends Appeal was considered by the Assistant City Manager and his decision overruled the objections in the Furry Friends Appeal, as described in the attached written decision; and

WHEREAS, the Hearing Officer appointed by the City Manager reviewed such appeal and all objections therein and a report has been made overruling the objections of Furry Friends Rescue pursuant to the Procurement Ordinance and the RFP provisions; and

WHEREAS, it is recognized that final terms and conditions are subject to additional negotiation and the Animal Rescue League of Iowa will be the exclusive provider of the animal shelter, operation of the animal shelter, and animal control services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that, the Council hereby affirms the report of the Hearing Officer overruling the objections of Furry Friends Rescue stated in its appeal.



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BE IT FURTHER RESOLVED, by the City Council of the City of Des Moines, Iowa, that the proposal submitted by the Animal Rescue League of Iowa, Inc. (ARL) is approved and accepted and the City Manager is authorized to negotiate and execute a contract with the ARL for the animal shelter and animal control services as described in RFP V18-024 and the ARL's proposal on behalf of the City, subject to the review and approval as to form by the Legal Department, and the Clerk is authorized to attest to his signature.

(Council Communication No. 18-189 )

Moved by \_\_\_\_\_ to adopt.

Approved as to Form:

Ann DiDonato

Ann DiDonato
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, WESTERGAARD, BOESEN, MANDELBAUM, and TOTAL.

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

Mayor

City Clerk

March 27, 2018

**Report to the City Council and Furry Friends Refuge (FFR) Re: Review by Hearing Officer on Appeal of Furry Friends Refuge (FFR) Concerning Evaluation and Selection Committee's Recommendation as to Selection of Animal Rescue League of Iowa, Inc. (ARL) as Best Proposal for Animal Control and Shelter Services for the Des Moines Police Department (RFP No. V18-024)**

Furry Friends Refuge, 1211 Grand Avenue, West Des Moines, IA 50265, filed a written appeal timely received by the Procurement Administrator on February 14, 2018 to the Notice of Intent to Award issued by the Procurement Administrator informing the proposers of the Evaluation and Selection Committee's recommendation to be made to the City Council to award the Animal Control and Shelter Services contract to Animal Rescue League of Iowa, Inc.

In response to this appeal, a notice of pending appeal was sent to all proposers. I, Matthew A. Anderson, Assistant City Manager, was appointed by the City Manager to act as the Hearing Officer.

I have completed a review of the Committee's evaluation and selection recommendation based on the record as it relates to the objections raised in the FFR Appeal.

The FFR Appeal lacks clarity on all but one specific objection. I have addressed that one specific objection as well as summarized my response to a pattern of multiple objections all of which address the same theme or pattern. My findings (in italics) immediately follow.

1. FFR should be eligible for the local preference point because of its location at 1723 Grand Avenue.

*Finding: As stated in the Proposal Evaluation and Scoring Criteria section of the RFP, Section 2-705 of the Municipal Code allows a local preference score for proposers with their headquarters in the City of Des Moines corporate limits. FFR does not state in its appeal that the FFR location at 1723 Grand Avenue is its headquarters. FFR did not meet its burden of persuasion to establish that its headquarters are within the City limits in its appeal. In fact, the State of Iowa Secretary of State lists the home office of Furry Friends Refuge as 1211 Grand Avenue, West Des Moines, IA 50265.*

***This objection is overruled.***

2. The following objections have been categorized together as the gist of these objections is that the RFP did not provide FFR sufficient information on which to make an informed proposal. One Finding is therefore provided for these consolidated objections:
  - a. "The RFP process is required by law to provide all vendors an equal starting point for vendors to provide and build a proposal."
  - b. "An even playing field was not created for this RFP. One vendor has all data available to them while the other had data withheld from requests under the sunshine law, was never provided with several pieces of information critical to analysis of an appropriate facility, and what data was provided was unreliable."

- c. "The city failed their legal obligation to hand over the data during the formal request and waited until it was pried from them after the RFP has already been issued."

*Finding: The RFP and November 8, 2017 Addendum #1 clarification to all potential proposers provided a thorough basis of information to facilitate accurate responses to the RFP, including the facility requirements. The 60+ pages of supplemental documentation provided by FFR display a pattern of questioning data provided by the City of Des Moines and ARL dating back a number of years. The FFR RFP response repeatedly uses terms such as "unclear" and "confused". An inability to comprehend the data provided does not constitute a failure on the part of the City to provide adequate information on which to prepare a response to the RFP. I find that the RFP does provide adequate information to enable proposers to adequately prepare a response. In addition, as stated in the RFP, the City used a consultant, incorporated industry best practices, and conducted a public meeting to obtain public input into facility requirements. The support provided by FFR for its objections does not overcome the City's substantial efforts to provide comprehensive information to enable proposers to understand what is needed to ensure adequate facility operations.*

***This objection is overruled.***

Following my review of the objections and assertions and findings listed above, I find that the appeal is denied.

Respectfully Submitted,



Matthew A. Anderson  
Assistant City Manager and Hearing Officer

Cc: Scott E. Sanders, City Manager  
RFP V18-024 Evaluation and Selection Committee  
Furry Friends Refuge  
Animal Rescue League of Iowa