

ANIMAL CONTROL AGREEMENT

THIS AGREEMENT is made and entered into by and between the CITY OF YAKIMA, a Washington municipal corporation (hereinafter the "City") and the YAKIMA HUMANE SOCIETY, a nonprofit corporation, (hereinafter the "Humane Society").

WHEREAS, the Humane Society operates an animal shelter and is engaged in performing the general services of the Humane Society within the County of Yakima, Washington; and

WHEREAS, the City of Yakima requires the use of an animal shelter to shelter animals impounded by the City's Animal Control officers; and

WHEREAS, the City has previously contracted with the Humane Society for the boarding of impounded animals and other services at the Humane Society's animal shelter; and

WHEREAS, the Humane Society is willing to continue providing said animal shelter services to the City in accordance with the terms and conditions of this Agreement; and

WHEREAS, the City of Yakima requires the Humane Society to contractually provide an employee to perform the duties of an Animal Control Officer for the City of Yakima; and

WHEREAS, the Humane Society is willing to provide Animal Control Officer employees to the City in accordance with the terms and conditions of this Agreement; and

WHEREAS, the City Council has determined that it is in the best interest of the City to enter into a contract for continued animal shelter services and an Animal Control Officer with the Humane Society, in accordance with the terms and conditions of the attached agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth herein, it is agreed by and between the City and the Humane Society as follows:

1. Animal Shelter Services.

a. Impounded Animals. On delivery by the City, the Humane Society shall board all animals impounded by the City's Animal Control officers at its animal shelter located at 2405 West Birchfield Road. The Humane Society shall keep accurate records of all animals impounded by the City's Animal Control officers that are delivered to its animal shelter. The Humane Society shall submit a monthly report of all animals impounded, the date delivered to the animal shelter, the number of days impounded, the date of release, and/or the date euthanized.

b. Stray Animals. The Humane Society shall also keep accurate records of all stray animals picked up within the City limits and delivered to its animal shelter.

c. Owner-Surrendered Animals. The Humane Society shall also keep accurate records on all owner-surrendered animals accepted at its animal shelter and originating within the City limits.

d. Unclaimed Animals. Unclaimed animals impounded by the City and delivered to the animal shelter shall become the property of the Humane Society. All dogs without any form of

ID (License, ID Tag, Microchip etc.) will be held for three (3) days. All dogs with some form of ID (license, ID Tag, microchip etc.) will be held for five (5) days excluding Wednesdays and major holidays

e. Disposal of Dead Animals. Upon delivery by the City, the Humane Society shall properly dispose of all dead animals (dogs, cats, and other animals of similar size) picked up by the City's Animal Control officers. The Humane Society shall provide a means of proper disposal for these dead animals at no additional cost to the City.

f. Redemption of Animals. The owner of any redeemed animal shall be responsible for the boarding charges and impound fees for such animal. The City shall not be responsible to the Humane Society for any fee in connection with a redeemed animal, with the exception of the \$15/day fee incurred in cases of legal holds in which an animal stays at the shelter after the ten-day mandatory period. In cases where the animal is redeemed after a legal hold, the owner shall reimburse the city directly.

g. Collection of Fees/Fines. The Humane Society shall collect from the owner of any redeemed animal the appropriate license fees and such amounts of money required by City law. The Humane Society shall not release an unlicensed animal to an owner that resides within the City until a license has been purchased with the appropriate copies of the license distributed to the owner and the City, and the license tag delivered to the animal owner.

The Humane Society shall remit such collected license fees, fines and other amounts to the City once a month with billing.

h. Treatment of Animals. The Humane Society shall, at all times, both during and after the impound period, treat animals delivered by the City to its animal shelter in a humane manner. The Humane Society may euthanize, in a humane manner, any animal delivered to its animal shelter by the City, which obviously has a contagious disease, is so injured that it cannot be helped with medical treatment or is otherwise unadoptable due to behavioral issues..

i. Forms and Costs of Printing. The City will furnish to the Humane Society, or pay the cost of printing, all forms used in supplying statistics for its records.

j. Animal Control Officers. The Humane Society shall provide 2.2 (Two point two) FTE Animal Control Officers to perform the duties set forth in Section 2 below. Such Animal Control Officers shall be deemed for all purposes to be employees of the Humane Society and not employees of the City.

k. Records Retention. The records relating to this Agreement must be made available to the City and are City of Yakima records. They must be produced to third parties, if required pursuant to the Washington State Public Records Act, Chapter 42.56 RCW, or by law. All records relating to this Agreement must be retained by the Humane Society for a minimum of six (6) years after the end date or termination of this Agreement. The records shall at all times be subject to inspection by and with the approval of the City of Yakima, and will be provided to the City upon the City's request. This Section shall survive the termination of this Agreement.

l. Legal Holds. The City of Yakima will pay 15.00 dollars per day for sheltering an animal, if the animal stays at the shelter after the ten-day mandatory legal hold and the hold is

caused by the City. This is an additional charge to this contract to be paid monthly, at the end of the following month after the month in which the charge is incurred.

2. Animal Control Officer Duties.

- a. Each Officer shall respond to, and initiate investigation of complaints, gather evidence statements and photographs, issue necessary citations, compile reports and appear in Municipal Court as needed.
- b. Each Officer shall patrol within designated areas, picking up dead, injured, stray, abandoned and/or unlicensed animals, as appropriate.
- c. Officers will work a five (5) day thirty eight (38) hour work week with one eight (8) hour floating employee from Monday through Friday and Wednesday through Sunday within an assigned area including coverage on the Greenway Foundation property. Hours will be assigned by the City of Yakima in a manner allowing the ability to assist other Animal Control Officers outside of the assigned area.
- d. The officer will respond to after hour call-outs for containment of vicious animals, tending to sick or injured animals and/or as requested by the Yakima Police Department for canine pick-ups during police actions. "After hour call-outs" are calls for service occurring outside the regular daily work schedule of the responding Animal Control Officer. All animals reported during "after hour call-outs" must be contained or the reporting person or a police officer must be standing by at the location the animal was reported.
- e. The city agrees to compensate the Humane Society an additional \$10 a day with a minimum of \$300.00 per month for the additional after hours coverage plus a \$25.00 charge for each callout (regardless of duration).

3. Consideration.

Effective January 1, 2020, the City Of Yakima agrees to compensate the Humane Society a total Eleven Thousand One hundred Eighty Six Dollars (\$11,186.00) monthly with an annual amount of One Hundred Thirty Four Thousand Two Hundred Twenty Four dollars (\$134,232.00) for Housing Services of the animals

Effective January 1, 2020, the City Of Yakima agrees to compensate the Humane Society a total of Ten Thousand Five Hundred Seventy Two Dollars (\$10,572.00) per month for 2.2 FTE Animal Control Officers with an annual amount of One Hundred Twenty Thousand Eight Hundred Sixty Dollars (\$126,864.00) retained by Humane Society pursuant to this Agreement. Total cost of the contract for 2020 is \$261,096.00.

The Humane Society, as additional compensation for services rendered hereunder, shall collect a Five Dollar (\$5.00) agent fee for the sale of each City dog license sold at the animal shelter. This agent fee shall not be included in the cost of the dog license fee.

The City of Yakima may contract with the Humane Society to supply additional Animal Control Officers as deemed necessary or appropriate by the City and assign such officers accordingly.

4. **Term of Agreement.** The term of this Agreement shall commence on January 1, 2020, and shall continue automatically for additional annual terms upon the same terms and conditions set forth herein, unless either party gives the other written notice not later than August 31 of any year of its desire to terminate this Agreement. Such termination may be without cause and shall be effective on the last day of December of the year of such notice, and payments by the City for the months of September through December of that year shall be at the rates applicable to the existing agreement. Additionally, either party has the right to terminate this Agreement for cause in accordance with Section 19 of this Agreement.

5. **Status of Humane Society.** The Humane Society and the City understand and expressly agree that the Humane Society is an independent contractor in the performance of each and every part of this Agreement. The Humane Society and its employees shall make no claim of City employment nor shall claim against the City any related employment benefits, social security, and/or retirement.

6. **Taxes and Assessments.** The Humane Society shall be solely responsible for compensating its employees and for paying all related taxes, deductions, and assessments, including but not limited to, federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Humane Society shall pay the same before it becomes due.

7. **Nondiscrimination Provision.** During the performance of this Agreement, the Humane Society shall not discriminate in violation of any applicable federal, state and/or local law or regulation on the basis of age, sex, race, creed, religion, color, national origin, marital status, disability, honorably discharged veteran or military status, pregnancy, sexual orientation, and any other classification protected under federal, state, or local law. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of services under this Agreement.

8. **Compliance with Law.** The Humane Society agrees to perform all services under and pursuant to this Agreement in full compliance with any and all applicable laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, whether federal, state, local, or otherwise.

9. **No Insurance.** It is understood the City does not maintain liability insurance for the Humane Society and/or its employees.

10. **No Conflict of Interest.** The Humane Society represents that neither it nor its employees have any interest and shall not hereafter acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. The Humane Society further covenants that it will not hire anyone or any entity having such a conflict of interest during the performance of this Agreement.

11. **Indemnification and Hold Harmless.** The Humane Society agrees to protect, defend, indemnify, exonerate, and hold harmless the City, its elected and appointed officials, agents, officers, and employees (hereinafter "parties protected") from (1) any and all claims, demands, liens, lawsuits, administrative and other proceedings, and (2) any and all judgments, awards, losses, liabilities, damages (including punitive or exemplary damages), penalties, fines, costs and

expenses (including legal fees, costs, and disbursements) for, arising out of, or related to any actual or alleged death, injury, damage or destruction to any person or any property (including but not limited to any actual or alleged violations of civil rights) to the extent solely or concurrently caused by, arising out of, or related to any actual or alleged act, action, default or omission (whether intentional, willful, reckless, negligent, inadvertent, or otherwise) resulting from, arising out of, or related to the Humane Society's provision of services, work or materials pursuant to this Agreement.

12. Humane Society Insurance.

- (a) **Commercial Liability.** On or before the date this Agreement is executed, the Humane Society shall provide the City with a certificate of insurance as proof of liability insurance in the amount of Two Million Dollars (\$2,000,000.00) that clearly states who the provider is, the amount of coverage, the policy number, and when the policy and provisions provided are in effect (any statement in the certificate to the effect of "this certificate is issued as a matter of information only and confers no right upon the certificate holder" shall be deleted). Said policy shall be in effect for the duration of this Agreement. The policy shall name the City, its elected officials, officers, agents, and employees as additional insured's, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice (any language in the clause to the effect of "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall be crossed out and initialed by the insurance agent). The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington
- (b) **Workers' Compensation.** The Humane Society agrees to pay all premiums provided for by the Workman's Compensation Act of the State of Washington. Evidence of the Humane Society's workers' compensation coverage will be furnished to the City. The Humane Society holds the City harmless for any injury or death to the Humane Society's employees while performing this Agreement.
- (c) **Automobile Liability.** Before this Agreement is fully executed by the parties, the Humane Society shall provide the City with a certificate of insurance as proof of commercial automobile liability insurance with a total minimum liability limit of One Million Dollars (\$1,000,000.00) combined single limit (per accident). Automobile liability will apply to "Any Auto" and include, but not be limited to, owned, non-owned and hired vehicles, and be shown on the certificate. The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Agreement. The policy shall name the City, its elected and appointed officials, officers, agents, employees, and volunteers as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice (any language in the clause to the effect of "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall be crossed out and initialed by the insurance agent). The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.
- (d) **Umbrella Policy.** The Humane Society shall provide the City with a certificate of insurance as proof of an umbrella insurance policy with a total minimum liability limit of One Million Dollars (\$1,000,000.00). The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall continue in effect for the duration

of the Agreement. The policy shall name the City, its elected and appointed officials, officers, agents, employees, and volunteers as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice (any language in the clause to the effect of “but failure to mail such notice shall impose no obligation or liability of any kind upon the company” shall be crossed out and initialed by the insurance agent). The insurance shall be with an insurance company or companies rated A-VII or higher in Best’s Guide and admitted in the State of Washington.

13. Delegation of Services. The services provided for herein shall be performed by the Humane Society, and no other person other than regular associates or employees of the Humane Society shall be engaged upon such work or services except upon written approval of City.

14. Assignment. This Agreement, or any interest herein, or claim hereunder, shall not be assigned or transferred in whole or in part by the Humane Society to any other person or entity without the prior written consent of the City. In the event that such prior written consent to an assignment is granted, then the assignee shall assume all duties, obligations, and liabilities of the Humane Society as stated herein.

15. Severability. If any portion of this Agreement is changed per mutual agreement or any portion is held invalid, the remainder of the Agreement shall remain in full force and effect.

16. Modification of Agreement. If either party desires to change or modify this Agreement, such party shall give written notice to the other not later than August 31 of any year of its desire and if a new agreement has not been reached by the following January 1st, the Agreement shall terminate on the following March 31st.

17. Integration. This written document constitutes the entire agreement between the City and the Humane Society. No changes or additions to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and executed by both parties. This Agreement supersedes any and all previous agreements between the parties.

18. Non-Waiver. The waiver by the Humane Society or the City of the breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by either party or prevent either party thereafter enforcing any such provision.

19. Termination for Cause. In the event that either party breaches or defaults with respect to any of its duties, obligations and conditions of this Agreement, the other party shall be entitled to terminate this Agreement by providing the breaching/defaulting party with a written termination notice thirty (30) calendar days in advance of the effective termination date. The notice shall describe how the other party is in breach/default of this Agreement. The breaching/defaulting party shall have the right to cure such breach/default during the thirty (30) calendar day notice period.

20. Notices. Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties to their addresses as follows:

TO CITY:
Alex Meyerhoff, Interim City Manager
City of Yakima
129 N. 2nd Street, Yakima, WA 98901

TO HUMANE SOCIETY:
Yakima Humane Society
2405 West Birchfield Road
Yakima, WA 98901

or to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

21. Survival. Any provision of this Agreement which imposes an obligation after termination or expiration of this Agreement shall survive the term or expiration of this agreement and shall be binding on the parties to this Agreement.

22. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

23. Venue. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Yakima County, Washington.

EXECUTED this ____ day of _____, 2019.

CITY OF YAKIMA

**YAKIMA HUMANE SOCIETY,
a nonprofit corporation**

By: _____
Alex Meyerhoff
Interim City Manager

By: _____
Its: _____

ATTEST:

By: _____
Sonya Claar-Tee, City Clerk