

## CONTRACT FOR SERVICES

This contract for services ("Agreement") is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Lawrence, Kansas, a municipal corporation ("City"), and the Lawrence Humane Society, Inc. a not-for-profit corporation under the laws of the State of Kansas ("Lawrence Humane").

### MUTUAL RECITALS

**WHEREAS**, Lawrence Humane operates and maintains an animal care facility in the city of Lawrence that nurtures the human-animal bond by providing shelter, care, and advocacy for homeless and abused animals, as well as resources for the pets and people in the city;

**WHEREAS**, the City has a continuing need for a facility to shelter, board, and keep animals collected by City Animal Control Officers or members of the public;

**WHEREAS**, the City wishes to engage Lawrence Humane, as an independent contractor, to perform the needed services, which are described herein.

**WHEREAS**, Lawrence Humane is willing and able to provide the services for which the City wishes to engage it and agrees to perform those services in accordance with the terms and conditions of this Agreement, as set forth below.

**WHEREAS**, the parties seek to work in cooperation to maintain and improve communication and a harmonious working relationship.

**WHEREAS**, the City Manager is authorized to enter into a contract for services with the Lawrence Humane.

### AGREEMENT

**NOW THEREFORE**, in consideration of the promises and mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties hereby covenant and agree as follows:

- 1. Engagement.** The City hereby engages Lawrence Humane as an independent contractor to perform the services hereinafter described and Lawrence Humane hereby accepts that engagement.
- 2. Lawrence Humane Responsibilities.** Lawrence Humane agrees to perform the following duties in a professional and timely manner:
  - A. Receive animals from Animal Control Officers of the City of Lawrence, Kansas.
  - B. Receive animal from members of the public that have been found within Lawrence city limits.
  - C. Provide all animals with necessary food, water, shelter and veterinary care.

- D. Work with City staff to ensure timely disposition of animals impounded through enforcement of Chapter 3 of the Code of the City of Lawrence, Kansas.
- E. Take permanent ownership of any animal not reclaimed by its owner in accordance with applicable law, in order that it may be transferred, adopted, or humanely euthanized.
- F. Work to reunite pets found within the city of Lawrence with their owners.
- G. Provide board for any animals required to be confined under State law or Chapter 3 of the Code of Ordinances of the City of Lawrence, Kansas.
- H. Assist Animal Control Officers and Police Officers, after Lawrence Humane business hours, with the pickup, impoundment, boarding, and necessary medical treatment for ill or injured domestic animals whose owner cannot be immediately ascertained.
  - i. Lawrence Humane will have an employee on-call to provide ill or injured animal pickup and care twenty-four (24) hours a day, seven days a week.
  - ii. Lawrence Humane shall have responsibility for any veterinary expenses incurred in the treatment of an unowned animal.
  - iii. In the event that Lawrence Humane personnel are unable to respond to an ill or injured animal call, the Animal Control and/or Police Officer shall make reasonable efforts to arrange for the care of the animal and may take the animal to an emergency veterinary clinic. The Animal Control and/or Police Officer shall immediately contact Lawrence Humane, who shall have the responsibility of picking up the animal and returning it to their facility in a timely manner for further evaluation and to ascertain an owner.
- I. Lawrence Humane agrees that it shall perform its work and services under this Agreement in accordance with recognized professional standards prevalent in the field of animal care. Further, Lawrence Humane agrees that it shall perform its work and service under this Agreement with professional expertise, skills, and knowledge of proficient industry procedures and techniques in all relevant subject matters.
- J. The City will have primary responsibility for the investigation of animal cruelty cases pursuant to Chapter 3 of the Code of the City of Lawrence, Kansas.

Once an animal has been impounded at Lawrence Humane with probable cause for a violation of city or state animal cruelty law, staff will provide a medical assessment of the animal and professional medical opinion to assist in the investigation and/or prosecution of the matter, and may provide further assistance for that investigation upon City request.

### **3. Compensation.**

- A. The City shall provide the compensation to Lawrence Humane as follows:
  - i. In 2018, the City shall provide \$37,500 to Lawrence Humane toward construction of an additional driveway and parking lot, specifically for animal control vehicles and reclaim services.
  - ii. In 2019, the City shall provide \$365,000 in compensation to Lawrence Humane for annual shelter operation services as set forth in Section 1 "Lawrence Humane Responsibilities" herein.
  - iii. Compensation to Lawrence Humane for the remaining term of this agreement shall be determined by the governing body of the City of Lawrence, Kansas, and shall comply with the applicable provisions of the Kansas Cash Basis Law, K.S.A. 10-1101 *et. seq.*, and is subject to Section 8.
    - a. In accordance with the Kansas Cash-Basis Law of 1933, codified as amended at K.S.A. 10-1101 *et seq.*, the City retains the right to unilaterally adjust the amount of any disbursement to the Grantee pursuant to this Agreement.
    - b. City is obligated only to make payments under this Agreement as may be lawfully made from funds budgeted and appropriated for the purposes as set forth in this Agreement during the City's current budget year. In the event City does not so budget and appropriate the funds, the parties acknowledge and agree that they shall be relieved from all obligations, without penalty, under this Agreement. To the extent that City does so budget and appropriate funds for the purposes set forth in this Agreement, the obligations of the parties shall remain as provided herein.
- B. Compensation to Lawrence Humane for years beyond 2019 shall be requested by Lawrence Humane in writing and submitted to the City no later than June 1 in the year prior to the year for which funding is requested.
- C. The City shall make quarterly payments to Lawrence Humane no later than the last day of the first month of each quarter of the City's fiscal year.

- D. The distribution of compensation to Lawrence Humane shall be dependent upon the successful completion of the terms and conditions of this Agreement, including but not limited to the timely preparation and distribution of an annual financial audit as required by this Agreement.

**4. City of Lawrence Duties.** The City agrees to perform the following duties in a professional and timely manner:

- A. Engage a firm to perform a performance audit of the Animal Control operation on or before June 31, 2019.
- B. Each animal impounded at Lawrence Humane shall be accompanied by a written summary indicating the date, time, and location the animal was seized, along with a description of the animal and an explanation of the facts leading to the seizure and impoundment of the animal.
- C. Make reasonable effort, as resources allow, in attempting to find the owner of an animal and return it home before impounding it at Lawrence Humane.
- D. Animal Control Officers will perform their work and services with professional expertise, skills, and knowledge of proficient industry procedures and techniques.

**5. Ongoing Reporting Requirements.**

- A. Annual Financial Audit
  - i. Lawrence Humane agrees to hire, at the expense of Lawrence Humane, a Certified Public Accountant certified by the State of Kansas, to prepare a written annual audit of the expenses and revenues of Lawrence Humane, including but not limited to a detailing of the expenditures of the revenues received by Lawrence Humane from the City of Lawrence. The audit shall include a detailing of Lawrence Humane's financial control mechanisms including its accounting, invoicing, revenue collection methods, payment methods, payroll record management and other financial control requirements.
  - ii. A copy of the annual audit shall be presented to the City, pursuant to the notice provisions of this agreement, no later than August 31 following the end of the most recent fiscal year. The failure to conduct an audit pursuant to the provisions of this agreement shall be considered a material breach of this agreement.
  - iii. Lawrence Humane shall conduct its financial affairs pursuant to generally recognized accounting standards, including timely responses to the recommendations of the annual audit.

- iv. City shall have the right, upon reasonable notice to Lawrence Humane, to audit, at any time, up to one year after payment of the final invoice, Lawrence Humane's records relating to the fees and expenses incurred in connection with this Agreement. In the event of a discrepancy between the audit conducted by Lawrence Humane and the audit conducted by the City, Lawrence Humane shall pay the costs of the City's audit. In the event the audit reveals no discrepancy, the City and Lawrence Humane shall equally share the cost of the City's audit.
- v. Lawrence Humane agrees to comply with K.S.A. 45-240, which requires not-for-profit entities receiving public funds to document and make available the receipt and expenditures of such funds.

**B. Other Reporting Requirements**

- i. Lawrence Humane shall provide to the City its IRS Form 990 with proof of filing no later than August 31 following the end of each fiscal year.
- ii. Lawrence Humane shall provide to the City its annual report outlining their Shelter Animals Count statistics as well as organizational highlights and accomplishments for the most recent fiscal year no later than March 31.

- 6. Insurance and Licensing.** Lawrence Humane agrees to maintain comprehensive liability insurance coverage. Lawrence Humane shall provide the City with a Certificate of Insurance demonstrating coverage upon request by the City. Lawrence Humane shall maintain all necessary licensure through the State of Kansas for the operation of the shelter.
- 7. State and Federal Law Compliance.** Lawrence Humane, its employees, agents or servants shall comply with all applicable laws and regulations governing the provisions of services pursuant to this agreement.
- 8. Termination.** The parties may terminate this Agreement at any time, for convenience or for cause, upon 30 days' written Notice to the other party. In the event that the City terminates the Agreement for convenience, then it shall pay Lawrence Humane for agreement services satisfactorily performed by Lawrence Humane and for all associated expenses incurred therewith prior to the termination. Under no circumstance, in the event of termination of this Agreement, will Lawrence Humane be entitled to recover anticipated or consequential damages. The provisions regarding indemnity and insurance shall survive the termination of this Agreement.

- 9. Modification.** The parties may examine this Agreement from time to time to ensure compatibility and effectiveness with any changes in laws, policies, or circumstances. This Agreement may be modified or amended in a writing signed by all parties.
- 10. Approval and Authorization.** Each of the parties warrants and represents by the execution of this Agreement that it has been approved by its governing body or board of directors, that the execution, delivery and performance of this Agreement by such party has been authorized by its governing body or board of directors, and that this Agreement constitutes a legal, valid and binding obligation of such party enforceable in accordance with its terms.
- 11. Duration.** This Agreement shall commence at 12:00 o'clock a.m. on January 1, 2019, and terminate at 11:59 o'clock p.m. on December 31, 2023, unless terminated pursuant to paragraph 8 or subsection (b) of this paragraph. The parties may agree in writing to extend the term of his Agreement. Annual compensation during the 5 year term will be determined pursuant to paragraph 2(D).
- 12. Survival of Representations and Warranties.** All representations, warranties, covenants and agreements contained herein shall survive the termination of this Agreement.
- 13. No Promises Outside of Agreement.** The parties acknowledge and warrant that, except as stated herein, no promises or inducements have been made or offered to them by any other party or their counsel, and that they execute this Agreement without reliance upon any other statements or representations made by any other party or their counsel.
- 14. Merger Clause.** This Agreement supersedes all prior agreements and understandings between the parties and is intended by the parties as the complete and exclusive statement of the terms of agreement between them. No other promises or modifications of this Agreement shall be valid or binding between the parties, unless set forth in writing and signed by all parties to the Agreement.
- 15. Entire Agreement.** The parties agree that this is the entire agreement with respect to the subject matter of this Agreement and that no representations or inducements have been made by either side except as set forth herein. This Agreement cannot be amended, modified, or supplemented in any respect except by written agreement entered into by the City and Lawrence Humane.
- 16. Severability Clause.** All provisions of this Agreement have been entered into and agreed to by the parties in good faith and sincerity as to their legality. If the contents of any paragraph, provision, or subpart thereof shall, at any time in the

future, be declared illegal and/or unenforceable between the parties by a final decree of a court of competent jurisdiction or by statute (federal or state), then said part declared illegal and/or unenforceable, and that part only, shall be deemed invalid and inoperative between the parties, it being understood and agreed that said remaining parts shall remain in full force and effect between the parties.

- 17. Counterparts.** This Agreement may be signed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Any photocopy of the executed original or of any counterpart shall be deemed to be an original for any and all purposes. The parties also agree that the executed counterparts may be delivered to the other parties by facsimile or electronic mail transmission, which facsimile or copy provided by electronic mail shall be deemed an original copy.
- 18. Descriptive Headings.** The descriptive headings of the various sections in this Agreement are included for convenience only and shall not be deemed to affect the meaning or constructions of any of the provisions.
- 19. Signatures.** Each party represents that the person signing this Agreement on its behalf has full authority to bind such party to this agreement.
- 20. Compliance with Equal Opportunity Laws, Regulations, and Rules.**

  - (a) Lawrence Humane agrees that it shall comply with all provisions of the Kansas Acts Against Discrimination of 1953 ("KAAD"), codified as amended at K.S.A. 44-1001 *et seq.*, and the Kansas Age Discrimination in Employment Act of 1983 ("KADEA"), codified as amended at K.S.A. 44-1111 *et seq.* and shall not discriminate against any person, in the course of performing under this Agreement, because of that person's race, religion, sex, disability, national origin, ancestry, sexual orientation, familial status, or age.
  - (b) Lawrence Humane also agrees to comply with the American with Disabilities Act of 1990 ("ADA"), codified as amended at 42 U.S.C. § 12101 *et seq.*, as well as all other federal, state, and local laws, ordinances, rules, and regulations applicable to this project and to furnish any and all certification that may be required by federal, state, or local governmental agencies in connection therewith.
- 21. Indemnification.** Each party agrees to defend, indemnify, and otherwise hold harmless the other party, its commissioners, officers, employees, directors, and agents from claims, actions, damages, costs, liabilities, settlements, judgments, expenses, or lawsuits, including reasonable attorneys' fees, but

only to the extent that such are caused by the other party's negligent or intentional non-performance under this Agreement or by negligence in performing any action necessary for performance under this Agreement. Neither party shall be liable to the other party for incidental, indirect, special, or consequential damages.

**22. Assignment.** This Agreement is non-assignable by the Lawrence Humane or by any subcontractor of Lawrence Humane.

**23. Notices.** All notices, demands, or other communications, which may be or are required to be given by any party to any other party under this Agreement, shall be in writing and shall be hand-delivered, mailed by first class mail, registered or certified mail, return receipt requested, postage prepaid, or sent by overnight express mail, postage prepaid, return receipt requested, to the following addresses:

**(a) If to Lawrence Humane:**

Lawrence Humane Society, Inc.  
1805 East 19th Street  
Lawrence, Kansas 66044  
Attn: Executive Director

**(b) If to the City:**

City of Lawrence, Kansas  
6 East 6th Street  
P. O. Box 708  
Lawrence, Kansas 66044  
Attn: Thomas M. Markus, City Manager

**24. Independent Contractor.** In no event, while performing under this Agreement, shall Lawrence Humane be deemed to be acting as an employee of the City; rather, Lawrence Humane shall be deemed to be an independent contractor. Nothing expressed herein or implied herein shall be construed as creating between Lawrence Humane and the City the relationships of employer and employee, principal and agent, a partnership, or a joint venture.

**25. Conflict of Interest.** Lawrence Humane is currently unaware of any conflict of interest with any party affected by this Agreement and agrees that, if any conflict or potential conflict of interest should arise in the future, it will give notice to the City immediately.





**BE IT REMEMBERED**, that on this \_\_\_\_ day of \_\_\_\_\_, 2018, before me the undersigned, a notary public in and for the County and State aforesaid, came Thomas M. Markus, as City Manager of the City of Lawrence, Kansas, who is personally known to me to be the same person who executed this instrument in writing, and said person fully acknowledged this instrument to be the act and deed of the aforementioned entity.


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

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Notary Public

My Appointment Expires:

THE LAWRENCE HUMANE SOCIETY, INC.

  
MEGHAN SCHEIBE

Interim Executive Director

**ACKNOWLEDGMENT**

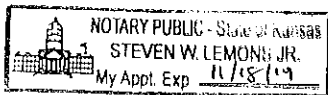
THE STATE OF KANSAS )


) SS:

THE COUNTY OF DOUGLAS )

**BE IT REMEMBERED**, that on this 10 day of December, 2018, before me the undersigned, a notary public in and for the County and Commonwealth aforesaid, came Meghan Scheibe, as Interim Director of the Lawrence Humane Society, who is personally known to me to be the same person who executed this instrument in writing, and said person fully acknowledged this instrument to be the act and deed of the aforementioned entity.

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



  
\_\_\_\_\_

Notary Public

My Appointment Expires: 11/18/19