

AGREEMENT FOR SHELTER SERVICES

THIS AGREEMENT ("Agreement") is made as of the 1st day of January 2018 (the "Effective Date"), by and between the City of Othello, a Washington municipal corporation (the "City") and Adams County Pet Rescue, a Washington non-profit corporation ("ACPR").

RECITALS

A. Pursuant to the RCW 35A.11.020, the City shall have the authority to (i) establish, adopt and enforce ordinances relating to its local or municipal affairs; and (ii) impose penalties for violations of such ordinances.

B. Pursuant to the RCW 35.23.440(11), the City shall have the authority to (i) establish, maintain and regulate a common pound for stray domestic animals within the city limits; (ii) prevent and regulate the running at large of all domestic animals within the city limits; and (iii) regulate or prevent the keeping of such domestic animals within the city limits.

C. Pursuant to the RCW 35.27.370(7), the City shall have the authority to impose and collect an annual license fee on every dog within the city limits.

D. Pursuant to RCW 35.21.101, the City may enter into contracts for the provision of services.

E. City desires to contract with ACPR for shelter services, and ACPR desires to provide shelter services for the City, upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises and conditions set forth in this Agreement, the City and ACPR agree as follows:

AGREEMENT

I. Dog Sheltering Services. With regard to dog sheltering services, ACPR shall:

(a) Receive, provide shelter for, and dispose of stray dogs picked up or delivered to ACPR;

(b) If, after the minimum seventy-two (72) hour holding period expires from when ACPR has received the stray dog(s) and the dog's owner has not retrieved the dog then ACPR shall either (A) hold the stray dog for either placement or adoption, or (B) euthanize and dispose of the stray dog. The decision of whether to hold the dog for adoption or to euthanize (including the timing of such euthanization) shall be within the sole discretion of ACPR;

(c) Log in-coming and out-going dogs and keep a complete record of all dogs that were received, returned to their owners, adopted, transferred, or disposed of;

(d) For vicious dogs, as defined by the Othello Municipal Code 6.04.010, after the seventy-two (72) hour holding period expires, ACPR shall continue to hold the vicious dogs until such time that the City authorizes disposal of the dogs;

(e) For vicious dogs held for the ten (10) day quarantine period for biting, ACPR shall continue to hold those dogs until such time that the City authorizes disposal of the dogs; and

(f) Be responsible for all costs and expenses for (i) supplies required by the shelter, including but not limited to cleaning supplies, dog food, kennels, and other materials that may be required to operate the shelter; (ii) all other expenses associated with maintaining and operating the facility where the shelter is located; and (iii) all other costs that may become necessary in the operation of the shelter, together with any costs associated with the services provided under this Agreement by ACPR, whether or not specifically provided for in this Agreement.

2. Sheltering Services for other Animals. With regard to sheltering services for other animals, ACPR shall:

(a) Receive, provide shelter for, and dispose of stray animals other than stray dogs delivered to ACPR by the City;

(b) If, after the minimum seventy-two (72) hour holding period expires from when the animal is received by ACPR shelter and either (i) the animal's owner has not retrieved the animal, or (ii) the City has not released the animal, then ACPR shall either (A) hold the stray animal for either placement or adoption, or (B) euthanize and dispose of the stray animal. The decision of whether to hold the animal for adoption or to euthanize (including the timing of such euthanization) shall be within the sole discretion of ACPR;

(c) Log in-coming and out-going stray animals and keep a complete record of stray animals which were received, returned to their owners, adopted, transferred, or disposed of;

(d) For vicious animals, as defined by the Othello Municipal Code 6.04.010, after the seventy-two (72) hour holding period expires, ACPR shall continue to hold the vicious animal until such time that the City authorizes disposal of the animal; and

(e) Be responsible for all costs and expenses for (i) supplies required by the shelter, including but not limited to cleaning supplies, food, kennels, and other materials that may be required to operate the shelter; (ii) all expenses associated with maintaining and operating the facility where the shelter is located; and (iii) all other costs that may become necessary in the operation of the shelter, together with any costs associated with the services provided under this Agreement by ACPR, whether or not specifically provided for in this Agreement.

3. Animal Control Services. ACPR shall hire and retain at all times this Agreement is in effect, an employee to provide animal control services (hereinafter "Animal Control Officer") for domestic animals which are found to be running at large within the city limits of the City.

(a) ACPR must obtain the City's approval of every person hired by ACPR for the Animal Control Officer position.

(b) The person hired for the Animal Control Officer position shall not have any history of conviction for misdemeanor or felony criminal offenses, and shall be competent and qualified to carry out the responsibilities under this Agreement.

- (c) The individual hired for the Animal Control Officer position must attend and successfully complete the Animal Control Officer course at the Criminal Justice Training Commission in Burien, Washington.
- (d) The Animal Control Officer shall not (i) have any authority to make arrests, (ii) carry a firearm or otherwise use deadly force, or (iii) restrain or detain any person. The Animal Control Officer's authority shall be limited to responding to calls regarding stray animals, issuing citations for violations/infractions of the Othello Municipal Code in regard to stray animals, and seizing stray domestic animals within the city limits of the City.
- (e) By this Agreement, ACPR is hereby assigned, authorized, required, delegated and empowered to (1) issue dog licenses to owners within the corporate limits of the City; (2) impound all animals coming into its control and custody as a result of violations of the City's animal regulations (including but not limited to the capture and impounding of animals running at large within the corporate limits of the City in violation of the Othello Municipal Code); (3) place or humanely dispose of such animals as come into its control; (4) manage and enforce the animal regulations pursuant to all City ordinances now in effect or which may hereinafter be adopted; (5) investigate all reports of violations of City ordinances relating to animal control and regulation and, when warranted by the facts, prosecute all persons charged with violation of said ordinances; and (6) collect animal licensing and impound fees from animal owners which ACPR shall retain and use to reduce the cost of providing these services.

4. Annual Report. ACPR shall provide the City with an annual report containing the information set forth below by February 15th for each year following the Effective Date. The annual report shall include:

(a) The number of animals received by the shelter from within the corporate city limits. This information shall be organized by animal species and shall designate whether the animals were strays or brought in by their owner; and

(b) The number of animals, categorized by the species, that were either adopted, returned after adoption, transferred to another facility, or euthanized or disposed of by ACPR.

(c) The annual report may also include any other information that either ACPR or the City determines to be informative, helpful or relevant to the operation of the shelter.

5. ACPR Covenants. In addition to the other covenants identified herein, ACPR covenants and agrees that it shall:

(a) Timely respond to all dispatch or community calls regarding picking up dogs;

(b) Provide approximately 20 hours per week of animal control officer services;

(c) Distribute dog licenses as required by the Othello Municipal Code, and write infractions for violations of the dog licensing requirements;

(d) Provide a vehicle for the operation of the shelter. ACPR shall be solely responsible for all vehicle maintenance costs and expenses.

6. City Covenants. The City covenants and agrees that it shall:

(a) Provide first year uniforms to ACPR for use by the employee assigned to Animal Control Officer responsibilities;

(b) Be responsible for costs and expenses of training, limited to lodging, equipment, and registration costs, for ACPR Animal Control Officer to attend the Animal Control Officer course at the Criminal Justice Training Commission in Burien, Washington;

(c) Provide citation books to ACPR and a limited commission, to be determined in good-faith between ACPR and the City, for the enforcement of violations of municipal infractions pertaining to animal control; and

(d) Approve, in its sole discretion, of ACPR's selection of an animal control officer. The individual selected as the animal control officer by ACPR must be a good-standing citizen without any integrity and honesty issues.

7. Agreement Fee. The City shall pay ACPR an Agreement Fee of forty-two thousand dollars (\$42,000.00) (the "Agreement Fee") as payment for the services provided under this Agreement and for the operation of the shelter. Ten thousand five hundred dollars (\$10,500.00) of the Agreement Fee shall be paid by City to ACPR at the end of each quarter beginning March 31st of 2018. The Agreement Fee shall increase by two percent (2%) the second year that this Agreement is in effect and the other payment terms and dates shall remain the same for the second and any subsequent year, unless negotiated otherwise and executed in writing by the parties.

8. Veterinary Services. The City shall not be responsible for the costs of providing veterinary services when requested by ACPR. ACPR shall not be responsible for the costs of providing veterinary services when requested by the City.

9. Hold Harmless. ACPR shall indemnify, defend and hold the City and City's respective directors, officers, and employees harmless from any claims and/or damages resulting from (or alleged to have resulted from) any action or inaction of ACPR, its employees, agents and volunteers related in any way to the operation of the shelter or provision of animal control services pursuant to the terms and conditions of this Agreement, including, without limitation, reasonable costs and fees associated with the indemnification obligation. ACPR's indemnification obligation under this Agreement shall include the duty to indemnify, defend and hold harmless the City for all actions of the City, ACPR or any third party to the extent ACPR, its employees, agents or volunteers contributed to the claim(s) being alleged.

10. Insurance. ACPR shall maintain and provide the City with proof of liability insurance which (a) names the City as an additional insured, and (b) provides an individual occurrence policy limit of \$1,000,000, and an aggregate policy limit of \$2,000,000.

11. Governing Law & Venue. Any dispute between the parties to this Agreement shall be governed by the laws of the State of Washington. Venue for any dispute arising out of this Agreement shall be in Adams County, Washington.

12. Attorneys' Fees. If either party commences a legal action to enforce any term of this Agreement, then the prevailing party shall be entitled to recover their reasonable attorney fees and costs incurred in pursuing and/or defending against said action.

13. Notice. Notice required hereunder shall be sent to the individuals who executed this Agreement at the following addresses:

If to City: Shawn R. Logan
500 E. Main Street
Othello, Washington 99344

If to ACPR: Kyya Grant
1961 W. Bench Road
Othello, Washington 99344

14. Term & Modification. This Agreement shall be effective for two (2) years from the Effective Date. Unless the parties to this Agreement agree, in writing, to terminate this Agreement by November 1st of the second year that this Agreement is in effect, then this Agreement shall automatically renew on a year-to-year basis and the terms of this Agreement shall remain in effect. If this Agreement automatically renews under this section, then the parties shall negotiate in good-faith to recalculate the Agreement Fee for the subsequent year(s), provided that, the Agreement Fee shall not be less than its previous year. Notwithstanding the foregoing, the terms of this Agreement may be renegotiated without having to terminate this Agreement in its entirety. If either party desires to renegotiate the terms of this Agreement, then that party shall provide the other party with notice no later than November 1st of the year prior to when the negotiated terms will take effect. Modification of any term of this Agreement, or addition of new terms, shall be agreed upon, in writing, and executed by both the City and ACPR.

15. Entire Agreement. This Agreement represents the entire and complete agreement between ACPR and the City. This Agreement cannot be modified, or any of its terms waived, except by written agreement executed by both ACPR and the City.

[Signature page follows]

IN WITNESS WHEREOF, the City and ACPR have executed and delivered this Agreement to be effective as of the Effective Date.

CITY:

CITY OF OTHELLO, a Washington municipal corporation

By: Shawn R. Lisch
Name: Shawn R. Lisch
Its: Mayor

ACPR:

ADAMS COUNTY PET RESCUE, a Washington non-profit corporation

By: Kyla Grant
Name: Kyla Grant
Its: ACPR President