

PURCHASE OF ANIMAL IMPOUNDMENT SERVICES AGREEMENT

BETWEEN

**THE HUMANE SOCIETY OF MARATHON COUNTY, INC.
AND THE VILLAGE OF KRONENWETTER**

Municipality Address: Village of Kronenwetter
ATTN: Humane Society Contract Administrator
1582 Kronenwetter Drive
Kronenwetter, WI 54455

Humane Society: Executive Director
7001 Packer Drive
Wausau, WI 54401

THIS SERVICES AGREEMENT (the "Agreement"), is made and entered into, by and between the Village of Kronenwetter (the "MUNICIPALITY") and the Humane Society of Marathon County, Inc. ("HSMC"),

RECITALS

WHEREAS, MUNICIPALITY, desires to purchase services from HSMC (a not-for-profit corporation under the laws of the State of Wisconsin) for the impoundment, care, treatment and/or humane disposal of non-dog strays, and

WHEREAS, HSMC is presently situated and capable to provide services to MUNICIPALITY for professional and ethical impoundment, animal shelter, care services, treatment and humane disposal of an animal; and

WHEREAS, at all times this Agreement shall be construed in a manner so as to maximize the welfare of the animals who are the subject hereof and who are cared for by HSMC pursuant to the terms of this Agreement; and

WHEREAS, HSMC maintains a principal place of business located at 7001 Packer Drive, Wausau, WI 54401, but periodically used third party facilities to pursue its mission; and

WHEREAS, HSMC is a not-for-profit private corporation (a private entity) entering into a contract with a political subdivision as defined in Wis. Stat §173.15(1) and acknowledges its obligations under Wis. Stat. § 173.15(2) in relation to said contract; and

WHEREAS, MUNICIPALITY and HSMC desire that this Agreement is for the impoundment, care and/or treatment of stray animals (EXCLUDING DOGS) for the duration of time as mandated by Municipal Ordinance or Wisconsin Statutes or by other written agreement with MUNICIPALITY.

AGREEMENT

NOW, THEREFORE, in consideration of the above Recitals (which are acknowledged to be true and correct and are incorporated into this Agreement) and the promises and agreements hereinafter contained and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each party to the Agreement), it is agreed by the MUNICIPALITY and HSMC as follows:

1.0 TYPE AND GEOGRAPHIC SCOPE OF SERVICES. HSMC agrees to provide the services detailed herein with respect to stray animals (excluding dogs) in response to a request by MUNICIPALITY.

1.1 Stray Animals (Excluding Dogs). HSMC will operate an impoundment facility to humanely receive, hold, treat, care for and dispose of stray animals as **defined** per this agreement as well as keep accurate records thereof of all of the animals brought to HSMC for this service.

- 1.2 Animals Held for Cause. This agreement does not include impoundment services for animals taken into custody pursuant to § 173.13, Wis. Stats., by law enforcement or humane officers of any political subdivision. Furthermore, this agreement does not include impoundment services for animals withheld from their owner for cause by any political subdivision, pursuant to § 173.21, Wis. States, et seq. MUNICIPALITY and HSMC agree that any such services to be performed on behalf of the MUNICIPALITY, shall be subject to a separate agreement. Political subdivisions located within Marathon County must enter into a separate agreement with HSMC, or other provider, for such services.
- 1.3 HSMC will attempt to locate the owners of stray animals and, if found, inform owner of the cost of holding, care, and treatment of that owner's animal.
- 1.4 HSMC will obtain ownership of a stray animal if they are unclaimed within the statutory 7-days for eventual adoption or relocation. Disposition costs of an animal that was brought in as a stray shall be borne by the MUNICIPALITY pursuant to the terms of Compensation set forth herein.
- 1.5 This agreement does not include impoundment services for stray dogs. Marathon County has entered into a separate agreement with HSMC for impoundment services for stray dogs.
- 1.6 On or before April 15th, July 15th, October 15th and January 15th of the following year of any year that this contract shall be in effect, HSMC shall provide the Village Clerk of the Municipality a quarterly report detailing the animals that HSMC takes in as strays that will be charged as coming from the Municipality. This report shall include the calendar day the animals was taken into care by HSMC, the amount of calendar days held, and the final determination of the animal, either recovered by owner, claimed by HSMC for adoption, or disposed of by HSMC.

2.0 **COMPENSATION.** MUNICIPALITY shall compensate HSMC for service detailed in this agreement according to the following:

\$2775 for the contract, for up to fifteen (15) non-dog strays LESS 2022 Return To Owner credits of \$120 for a NET contract amount of \$2655.

- 2.1 Compensation for services shall be calculated at the 2023 projected average intake amount of fifteen (15) non-dog stray animals (For the period of 1/1/22-10/30/22 HSMC has received 8 animals under this contract) at a price of \$185 per animal for the first nineteen (19) received and \$200 per animal over the contracted amount. The NET contract price of **\$3395** shall be due and paid in full on or before January 30, 2024.
- 2.2 Any animal that HSMC takes in that can be attributed to the MUNICIPALITY, as defined by this agreement, over fifteen (15) animals during the term of this agreement shall be charged to the MUNICIPALITY a rate of \$200 per animal. HSMC shall invoice the MUNICIPALITY the additional charge for these animals by January 30, 2024, and the MUNICIPALITY shall pay this additional amount to HSMC by February 28, 2024.
- 2.3 HSMC will credit MUNICIPALITY for any non-dog stray brought in under the 2022 contract and which was "Returned to Owner" prior to the end of the statutory 7-day hold period. The credit will be calculated based

on days of care and disposition costs NOT incurred by HSMC for the holding of said animal. Additionally, if the Owner paid a reclaim fee to HSMC for the animal, that fee will also be credited to MUNICIPALITY.

In 2022, there were four animals that qualified for a credit totaling \$120.00.

3.0 TERM OF AGREEMENT.

3.1 Term. Unless otherwise agreed in writing, the term of this agreement shall be one (1) year commencing January 1, 2024 and this term shall expire on December 31, 2024. This Agreement can only be renewed by mutual agreement of the two parties. The Agreement may also be terminated subject to termination provisions under Section 6.0.

3.2 Renewal Procedures. This Agreement shall not renew automatically and nothing in this Agreement shall be constructed as requiring MUNICIPALITY or HSMC to renew the Agreement. In the event that either party desires to extend this agreement beyond its one-year obligation, as described in 3.1, the party requesting the renewal must provide notice to the other party by 60-days prior to the expiration date.

4.0 **DEFINITIONS.** As used in this Agreement and in all discussions leading to and throughout the Term of this Agreement, the following words shall have the meanings provided below:

4.1 Stray Non-Dog Animal: A non-dog animal whose owner or custodian is unknown or cannot be ascertained immediately with reasonable effort. A stray non-dog animal may be brought to HSMC by the MUNICIPALITY'S humane or law enforcement officers, or a humane officer or law enforcement officer or by an official or employee of a political subdivision, including a city, village or town, located within the geographical limits of Marathon County or by private individuals.

4.2 Surrender: Is any animal that has been voluntarily handed over to HSMC by its owner, handler or other person entitled to do so. Surrender Animals are **NOT** within the scope of this Agreement.

4.3 Unclaimed: Any animal whose owner has failed to reclaim the animal within the statutory time frames under State laws.

4.4 Wild Animal: The definition of "wild animal" is to include all nature-born, non-domesticated, non-owned free animals of all and any species even if living in and around humans or other domesticated, exotic or livestock animal. Wild Animals are **NOT** within the Scope of this Agreement.

5.0 EXECUTION AND PERFORMANCE OF SERVICES.

5.1 Cooperation. HSMC agrees to use reasonable methods in working with all MUNICIPAL departments, agencies, employees and officers. MUNICIPALITY agrees to use reasonable methods in working with HSMC in order to enable HSMC to perform the services described herein and in paying for such services.

- 5.2 HSMC Personnel. HSMC agrees to secure, at its own expense, all personnel necessary to carry out its obligations under this Agreement. Such personnel shall not be employees of MUNICIPALITY. HSMC shall ensure that its personnel are instructed that they do not have any direct contractual relationship with MUNICIPALITY. MUNICIPALITY shall have no authority over any aspect of HSMC'S personnel practices and policies and shall not be liable for actions arising from such policies and practices.
- 5.3 Transportation of Animals. MUNICIPALITY is NOT purchasing transportation services from HSMC, and HSMC shall have no ongoing obligation to pick up or transport ANY animal covered by this Agreement.
- 5.4 Facility Access. HSMC will provide, or assure the availability of an appropriate facility that will provide admitting Stray non-dog animals 24 hours a day, 7-days a week, that are dropped off by humane and law enforcement officers operating within the geographical boundaries of Marathon County. Private individuals dropping off a non-dog stray must do so during public business hours or coordinate with the municipality representative.
- 5.5 Services for all Animals HSMC agrees to provide services to MUNICIPALITY for professional, humane and ethical impoundment, animal shelter, care services, treatment and humane disposal of any animal within the scope of this agreement.
- 5.6 Reclaiming Services. HSMC shall use reasonable attempts to identify, locate, and contact the animal's owner in order to arrange for either the surrender or the return of the animal. Said efforts will be made within the statutory 7-day holding period. Notwithstanding the foregoing, the parties acknowledge that the owners of some stray non-dogs' animals are never known or even identified such that HSMC's ability to find the owner is a legal impossibility.
- 5.7 Ethical and Humane Treatment. HSMC agrees it will use the best practices for care, housing, treatment, adoption or final disposition (euthanize, transfer or adoption) of all animals within the scope of this agreement and in compliance with all federal, state and local laws.
- 5.8 Not an Exterminator. MUNICIPALITY agrees that HSMC does not provide services for any animal that would be best handled by a 'pest' exterminator.
- 5.9 Disposition of Stray Non-Dogs Animals. After the statutory waiting time, typically seven (7) days, the parties agree that HSMC may obtain exclusive possession of all strays covered by this agreement. However, and at the HSMC's sole discretion, the HSMC may not desire to take possession of certain animals and shall have the legal right to terminate the animal and dispose of the animal's remains.
- 5.10 Protocols. HSMC and MUNICIPALITY agree that HSMC will create certain protocols (rules) for MUNICIPALITY'S agents to follow in order to accomplish the efficient execution of this contract with a minimum of confusion or disagreement.
- 5.11 Records HSMC agrees to keep statistical records of all animals, including origin (jurisdiction), admittance, disposition, care, treatment and redemption records. Such records shall be made available to MUNICIPALITY as they request from time to time. Such records will be available for review at HSMC by appointment with Executive Director or designee.

6.0 TERMINATION OF AGREEMENT

6.1 Termination: No Cause. Either party may terminate the Agreement, for any reason, at any time upon 30 days written notice.

6.2 In the event this Agreement is terminated, HSMC shall reimburse the MUNICIPALITY for their yearly cost paid by the MUNICIPALITY prescribed under section 2.1 of this agreement less either the number of animas turned in to HSMC by the Municipality multiplied by \$185 or 1/12th for each month that the agreement is in effect, whichever is greater.

7.0 INSURANCE AND INDEMFICATION.

7.1 Insurance. In order to protect itself and MUNICIPALITY, its officers, boards, commissions, agencies, employees and representatives under the indemnity provisions of this Agreement, HSMC shall obtain and at all times during the term of the Agreement keep in full force and effect comprehensive general liability policies (as well as professional malpractice or errors and omissions coverage, if the service being provided are professional services) issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Department, with liability coverage provided for therein in the amounts of at least:

- Commercial General Liability-\$1,000,000 combined single limit
- Workers Compensation Insurance as required by Wisconsin Statutes of all employees engaged in work

8.0 NOTICE TO PUBLIC AND PRIVATE OF NONAFFILIATION.

HSMC may employee at various times outside contractors or promoters to assist it with all types and levels of products or services. HSMC agrees that it shall inform all outside contractors, promoters, and the public that the HSMC is not a legal entity, agency or subdivision of MUNICIPALITY

9.0 NOTICES

9.1 Notices to the MUNICIPALITY Except as more specifically provided by the terms of this Agreement, notice to the MUNICIPALITY shall be delivered via first class mail as follows:

Dan Mahoney Interim Village Administrator 1582 Kronenwetter Drive Kronenwetter, WI 54455-7268	Bobbi Bik-LaBarge Village Clerk 1582 Kronenwetter Drive Kronenwetter, WI 54455-7268
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9.2 Notices to HSMC Except as more specifically provided by the terms of this Agreement, notice to HSMC shall be delivered via first class mail as follows:

Lisa Leitermann Executive Director Humane Society of Marathon County 7001 Packer Drive Wausau, WI 54401-9321	Mary Tubbs President of the Board of Directors Humane Society of Marathon County 7001 Packer Drive Wausau WI, 54401-9321
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10.0 **MISCELLANEOUS.**

10.1 Integrated Agreement. This document together with any and all instruments, exhibits, schedules or addenda attached hereto or referenced herein sets forth the complete understanding of the parties relating to the matters which are the subject hereof and supersede any and all prior or contemporaneous written or oral agreements, understandings and representations relating thereto.

10.2 Modifications. This Agreement may only be modified in writing signed by the parties or any officers of such parties with authority to bind the party. No oral statements, representatives or course of conduct inconsistent with the provisions of this Agreement shall be effective or binding on any party regardless of any reliance thereon by the other.

10.3 Choice of Law and Venue. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin. In the event of any disagreement or controversy between the parties over this Agreement, the parties agree that the sole and exclusive venue for any legal proceedings related to it shall be in the Marathon County Circuit Court (State of Wisconsin).

10.4 Construction

10.4.1 Construction against the Drafter. Provisions for which ambiguity is found shall not be strictly construed against any party by virtue of that party having drafted or prepared the same.

10.4.2 Captions. Captions or any section or paragraph of this Agreement are for the convenience of reference only and shall not define or limit the scope of any provisions contained therein.

10.4.3 Severability. Whenever possible each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law. However, if any provision is prohibited by or found to be invalid or unenforceable under applicable law or for any other reason or under particular circumstances the same shall not affect the validity or enforceability of such provisions under any other circumstance or of the remaining provisions of the Agreement. Such provision shall be deemed automatically amended with the least changes

necessary so as to be valid and enforceable and consistent with the intent of such provision as originally stated.

10.4.4 Tense. Use of the singular number shall include the plural and one gender shall include all others.

11.0 **ASSIGNMENT**

Neither party shall assign nor transfer any interest or obligation under this Agreement without the prior written consent of the other.

12.0 **THIRD-PARTY BENEFICIARIES.**

This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or appeal existing duties, rights, benefits or privileges of any third-party or parties, including, without limitation, employees of either party and any other municipality located within the geographic limits of the County.

13.0 **EXECUTION IN COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

14.0 **REPRESENTATION OF COMPREHENSION OF DOCUMENT.**

In entering into this Agreement, the parties represent that they have relied upon the advice of their attorneys, who are the attorneys of their choice, concerning the legal consequences of this Agreement. They further agree that the terms of this Agreement have been completely read and explained to them and they are fully understood and voluntarily accepted.

(SECTION INTENTIONALLY LEFT BLANK – SEE PAGE 8 FOR SIGNATURES)

15.0 **WARRANTY OF CAPACITY TO EXECUTE**

15.1 I, Dan Mahoney in my capacity as the Village Administrator and acting as the MUNICIPALITY Contract Administrator for the Village of Kronenwetter, and I, Bobbi Birk-LaBarge, Village Clerk, warrant that the Village Board has taken action to approve this contract during a public meeting of the Village Board as presented and we have the legal authority to execute this Agreement on behalf of the Village of Kronenwetter and to receive the consideration specified in it, and that neither we nor the Village of Kronenwetter sold, assigned, transferred, conveyed or otherwise disposed of any rights subject to this agreement.

15.2 I, Lisa Leitermann, Executive Director, Humane Society of Marathon County, Inc. and I Mary Tubbs, President of the Board of Directors of HSMC warrant that we have the legal authority to execute this Agreement on behalf of the HSMC and that neither they nor HSMC have sold, assigned, transferred, conveyed or otherwise disposed of any rights subject to this Agreement.

FOR HUMANE SOCIETY OF MARATHON COUNTY:

Lisa Leitermann _____ Date
Executive Director, HSMC

Mary Tubbs _____ Date
President Board of Directors, HSMC

FOR MUNICIPALITY:

Date of Village Board approval: _____
Date

Dan Mahoney, Interim Village Administrator _____ Date
MUNICIPALITY Contract Administrator

_____ Bobbi
Birk-LaBarge _____ Date MUNICIPALITY
Clerk

