

## **CONTRACT FOR OPERATION OF MISSION ANIMAL SHELTER**

This Contract for operation of City Animal Shelter ("Contract") is made between the CITY OF MISSION, TEXAS ("CITY"), a home-rule municipal corporation of Hidalgo County, Texas doing business at 227 Abelino Farias St, Mission, TX 78572, and the RIO GRANDE VALLEY HUMANE SOCIETY ("SOCIETY"), a Texas non-profit corporation acting by and through Luis Quintanilla in his capacity as Executive Director of said corporation, currently doing business at 1106 Markowsky Avenue, Harlingen, Texas 78550.

**WHEREAS**, the City of Mission, may for a public purpose, engage in cooperative endeavors with other local governmental entities, corporations, private or public associations, or individuals; and

**WHEREAS**, the SOCIETY was incorporated as a non-profit organization under the laws of Texas, with the purpose of operating and managing the impoundment and holding facility for animals that have been involved in a bite and which are being held for observation and shall conduct animal adoption, foster, rescue, sterilization, educational, and other programs designed to maximize the number of animals saved from euthanasia as well as to further the interests of public health and safety (hereinafter referred to as "Animal Shelter Services"); and

**WHEREAS**, as part of the services provided by the City of Mission's Health Department, the CITY desires to cooperate with SOCIETY in the operation similar CITY programs and provide funds to facilitate Animal Shelter Services; and

**WHEREAS**, the public purpose of this endeavor is to assist with Animal Shelter Services in the City of Mission; and

**WHEREAS**, the CITY has a reasonable expectation of receiving a benefit or value described in detail that is at least equivalent to or greater than the consideration described in the Contract; and

**WHEREAS**, the transfer or expenditure of public funds is not a gratuitous donation.

**NOW, THEREFORE**, for and in consideration of the mutual agreements stated herein, and in further consideration of the funds to be paid to SOCIETY by CITY and the services to be performed by SOCIETY for CITY, said parties do hereby Contract as follows:

### **I.**

#### **STATEMENT OF INTENT**

Whenever the terms "City Animal Shelter" or "Shelter" are used it is to be understood to refer to the current City of Mission Animal Shelter (located at 227 Abelino Farias St, Mission, TX 78572) (hereinafter referred to as the "City Animal Shelter") and any new city animal shelter facility or facilities that may be constructed in the future.

CITY will retain ownership of the City Animal Shelter and the Rio Grande Valley Humane Society will operate it under the supervision of the City Health Director. The City Animal Shelter serves as an impoundment and holding facility for animals that have been involved in a bite and

which are being held for observation and shall conduct animal adoption, foster, rescue, sterilization, educational, and other programs designed to maximize the number of animals saved from euthanasia as well as to further the interests of public health and safety. SOCIETY has agreed to operate the City Animal Shelter on a full time, seven days a week basis at a substantial cost savings to the City of Mission.

## **II.**

### **TERM**

The initial term of this Contract shall be for a period of three (3) years commencing upon the effective dates hereof; however, that the CITY shall have the right and option to extend the term hereof by up to three (3) twelve (12) month extension periods by giving written notice to SOCIETY of CITY's election to extend the term hereof, such notice to be given not more than ninety (90) days prior to the expiration of the initial term or the immediately preceding term.

## **III.**

### **SERVICES TO BE PROVIDED BY SOCIETY**

CITY and SOCIETY mutually agree that SOCIETY shall operate the City Animal Shelter at a minimum of 8 hours per day, 7 days per week; provided, however, that SOCIETY, at its discretion, may limit the hours that City Animal Shelter is open to the public. The SOCIETY agrees to operate and manage the impoundment and holding facility for animals that have been involved in a bite and which are being held for observation and shall conduct animal adoption, foster, rescue, sterilization, educational, and other programs designed to maximize the number of animals saved from euthanasia as well as to further the interests of public health and safety, and all other services requested by CITY. SOCIETY shall keep the City Animal Shelter in a safe and sanitary conditional all times in accordance with Department of State Health Services standards, and shall accept all animals impounded by Mission Animal Control Officers found running at large in the CITY or impounded for observation following a bite report. SOCIETY may also accept dogs or cats brought to the shelter by Mission residents.

## **IV.**

### **SOCIETY TO COMPLY WITH CITY ANIMAL CONTROL ORDINANCES**

CITY and SOCIETY agree that CITY has enacted ordinances pertaining to the impoundment, adoption, and disposition of animals kept at the City Animal Shelter. As a condition of this Contract, SOCIETY shall abide by and comply with all provisions of the Code of Ordinances of the City of Mission applicable to its operation of the City Animal Shelter.

## **V.**

### **SOCIETY TO ACT AS INDEPENDENT CONTRACTOR**

CITY and SOCIETY agree that the services to be provided by SOCIETY pursuant to this Contract shall be performed by SOCIETY as an independent contractor of the City of Mission. Notwithstanding any provision in this Contract to the contrary, SOCIETY shall not be considered

to be the agent, servant, or employee of the City of Mission. CITY shall not control the manner and means of performance of this Contract by SOCIETY, but CITY will insure that its animal control ordinances set forth in the Code of Ordinances of the City of Mission are being complied with by the SOCIETY, its officers, employees, and volunteers.

## **VI.**

### **PROCESS FOR THE HANDLING OF COMPLAINTS**

All complaints regarding the operation of the City Animal Shelter shall be initially addressed in writing to the Shelter Supervisor, as designated by the SOCIETY, and copied to the City Health Director within ten (10) days and responded to in writing. If the Complainant is not satisfied with the written response, he or she must appeal the response in writing to the President of the SOCIETY' Board of Directors within ten (10) days. The President shall issue a written determination within ten (10) days. If the Complainant does not receive the President's written determination within fifteen (15) days of his or her appeal or is dissatisfied with the determination, he or she must appeal in writing to the SOCIETY's Board of Directors within ten (10) days of the date of the receipt or failure to receive. The determination of the SOCIETY's Board of Directors shall be final.

## **VII.**

### **INDEMNIFICATION AND INSURANCE**

**CITY AND SOCIETY AGREE THAT SOCIETY SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES (HEREINAFTER THE "PROTECTED PARTIES"), AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, DAMAGES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON(S) OR THEIR CAT(S) AND/OR DOG(S), THAT MAY ARISE OUT OF OR BE OCCASIONED BY SOCIETY'S BREACH OF ANY OF THE TERMS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL OR STRICTLY LIABLE ACT OR OMISSION OF SOCIETY, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, VOLUNTEERS, OR SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH SOCIETY IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW.**

**SOCIETY AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND PROTECTED PARTIES AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, THE CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT**

**TO BE CONSTRUED AS A WAIVER OF SOCIETY'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF SOCIETY'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS CONTRACT. SOCIETY SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS CONTRACT. IF SOCIETY FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.**

In order to insure SOCIETY's obligation pursuant to this paragraph, SOCIETY shall obtain and maintain during the term hereof, including any extensions enforced by CITY, a Commercial General Liability Insurance policy covering all operations and services under this Contract with limits for damages for bodily injury, including damages claimed by any person or organization for care, loss of services or death resulting at any time from the bodily injury and property damage combined in the amount of not less than \$1,000,000 Per Occurrence and \$2,000,000 Aggregate. Commercial General Liability Insurance shall be written to include, on an occurrence basis, bodily Injury and property damage losses resulting from (1) condition of the premises, (2) business operations, (3) product liability, (4) completed operations and (5) operations of independent contractors. The Commercial General Liability Insurance Policy shall be endorsed to name the CITY OF MISSION as an additional insured, waive subrogation and extend the cancellation clause to thirty (30) days' notice. A certificate of insurance reflecting the above required insurance coverage and limits of liability must be provided to the CITY prior to the annual renewal date of the policy. The original Certificate of Insurance shall be forwarded to: RISK MANAGER, CITY OF MISSION, 1201 E. 8<sup>th</sup> Street,, Mission, Texas 78572 SOCIETY shall not take possession of the shelter until such insurance has been obtained.

## **VIII.**

### **CONSIDERATION TO BE PAID BY CITY**

CITY and SOCIETY hereby mutually agree that in consideration of the performance by SOCIETY of the services stated in this Contract, CITY shall pay SOCIETY the total sum of \$400,000 annually in 12 monthly installments of \$33,333.33 each on or before the 10th day of the calendar month.

SOCIETY's fiscal year runs from October 1st through September 30<sup>th</sup>. The CONTRACT between CITY and SOCIETY shall commence during fiscal year 2022/2023 already in progress. Accordingly, the contractual annual financial contribution from CITY to SOCIETY shall be prorated to reflect the shortened term of the initial Contract.

CITY and SOCIETY agree that in no event shall CITY be obligated to pay SOCIETY for any additional expenses incurred by SOCIETY in operation of the Shelter during the term of this Contract, other than water, sewer, and garbage and electricity which are the CITY's responsibility.

SOCIETY recognizes that the continuation of any contract after the close of any given fiscal year of the City of Mission, which fiscal year ends on September 30<sup>th</sup> of each year, shall be subject to Mission City Council approval. In the event that the Mission City Council does not approve the appropriation of funds for this contract, the Contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

## **IX.**

### **TERMINATION BY CITY**

CITY and SOCIETY agree that CITY may, at its option, with or without cause, and without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Contract, terminate this Contract, in whole or in part by giving at least thirty (30) days prior written notice to SOCIETY with the understanding that all services being terminated shall cease upon the date such notice is received unless otherwise indicated in writing by the CITY.

## **X.**

### **NOTICE**

CITY and SOCIETY agree that any notice to be given to SOCIETY shall be deemed sufficient if given in writing via certified mail, return receipt requested to SOCIETY at P.O. Box 1884, Harlingen, Texas 78551. Any questions concerning the performance of this Contract by SOCIETY shall be brought to the attention of the Mission City Manager in writing at 1201 East 8<sup>th</sup> Street, Mission, Texas 78552.

## **XI.**

### **FINANCIAL REPORTING**

CITY and SOCIETY agree that SOCIETY shall during the term hereof, including any extensions enforced by CITY, provide to the CITY Public Health Director a monthly activity report including all revenues and expenditures of SOCIETY. In addition, SOCIETY shall also provide a comprehensive financial report at the close of SOCIETY's fiscal year, prepared in accordance with generally accepted accounting principles, to the CITY's COUNCIL for their acknowledgment.

## **XII.**

### **ENTIRE AGREEMENT**

CITY and SOCIETY Agree that this Contract constitutes their entire agreement with respect to the subject matter hereof. This Contract may not be altered or modified except by written addendum executed in duplicate originals following approval by majority vote of the Mission City Council.

**XIII.**

**SEVERABILITY**

The provisions of this Contract are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Contract is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of law, such decisions shall not affect the remaining portions of the Contract.

**XIV.**

**AUTHORITY TO SIGN**

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Contract on behalf of the parties hereto.

**XV.**

**EFFECTIVE DATE**

This Contract shall be effective from and after the date of execution by the last signatory hereto as evidenced below.

**IN WITNESS WHEREOF**, the parties have executed this Contract by signing below.

**CITY OF MISSION**

**RIO GRANDE VALLEY HUMANE SOCIETY**

\_\_\_\_\_  
Randy Perez, City Manager

\_\_\_\_\_  
Luis Quintanilla, Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Victor A. Flores, CITY ATTORNEY

**ACKNOWLEDGMENTS**

**STATE OF TEXAS           §**  
**§**  
**COUNTY OF HIDALGO   §**

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 2023 by **LUIS QUINTANILLA, EXECUTIVE DIRECTOR OF RIO GRANDE VALLEY HUMANE SOCIETY**, a Texas non-profit organization, individually and on behalf of said organization.

\_\_\_\_\_  
Notary Public, State of Texas

**STATE OF TEXAS           §**  
**§**  
**COUNTY OF HIDALGO   §**

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 2023 by **RANDY PEREZ, CITY MANAGER OF THE CITY OF MISSION**, Texas, a home-rule municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of Texas