

**2023 SERVICE AGREEMENT
BETWEEN THE CITY OF WATERTOWN, WISCONSIN
AND THE WATERTOWN HUMANE SOCIETY**

THIS AGREEMENT is entered into this 1st day of January 2023 by and between the City of Watertown, a Wisconsin municipal corporation located in Jefferson and Dodge Counties, Wisconsin, hereinafter referred to as the "City," (notices and communications hereunder to be delivered to: 106 Jones Street, Watertown, WI 53094) and the Watertown Humane Society, Inc., hereinafter referred to as "WHS," (notices and communications hereunder to be delivered to: 418 Water Tower Court, Watertown, WI 53094), a Wisconsin nonprofit corporation located in Watertown, Wisconsin, for animal services to be provided by "WHS."

1. REMUNERATION

1.1. The City, in consideration of performance by WHS under this Agreement, as herein set forth, shall pay WHS for services furnished as provided hereunder.

1.2. The City shall pay to WHS for the entire calendar year, 2023, the sum of \$62,830.00 (Sixty-two Thousand, Eight Hundred and Thirty Dollars) in four (4) quarterly calendar installments of \$15,707.50 (Fifteen Thousand, Seven Hundred Seven Dollars and Fifty Cents) with respect to, and within, the calendar year 2023. Payment is due within fifteen (15) days of the beginning of each quarter.

1.3. Parties agree to annually review the above referenced amount and negotiate to increase or decrease that amount as described in Section 8.

2. DEFINITIONS

2.1. Animals – Dogs, cats and other small domestic animals.

2.2. Fees

2.2.1. Adoption Fee – an amount charged for the administrative services relative to the transfer of an animal to a new owner.

2.2.2. Boarding Fee – a daily amount charged for the care of an animal while at WHS.

2.2.3. Reclaim Fee – an amount in addition to the boarding fee charged to the owner of an animal that has been kept at WHS in order to reclaim the animal.

2.2.4. Service Fee – amount charged to private citizens by WHS to transfer an animal from WHS to a new owner (adoption), to accept an animal into WHS (surrender), or to euthanize an animal and/or dispose of a dead animal.

2.2.5 Surrender Fee-amount charged to relinquish a pet to the custody of the Watertown Humane Society.

2.2.5. Cremation Fee – amounts charged to private citizens by WHS for either group or private cremation of an animal.

2.3 Surrender – a statement by a former owner of an animal that he or she relinquishes all rights to that animal.

2.4. Owner/Caretaker – includes any person owning, harboring or keeping a dog or cat, and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for ten (10) days is presumed to be harboring or keeping the dog or cat within the meaning of this agreement per Watertown Municipal Code §228-3 and §228-16.

2.5. Live Trap – a trap that can be loaned out for live trapping of domestic stray animals. A deposit fee is required and said deposit is returned when the trap is returned in good working order.

3. RESPONSIBILITIES OF THE CITY

3.1. The City shall provide full cooperation and assistance to WHS, its officers, agents and employees in order to facilitate and accomplish the services performed under this agreement.

3.2. The City agrees that its Police Department will cooperate in the apprehension and/or destruction of dangerous, vicious or completely uncatchable animals when such animals are mutually determined to be dangerous, vicious or completely uncatchable.

3.3. Where special supplies, stationery, notices, forms and similar materials are to be issued in the name of the City, the same shall be supplied by the City to WHS at the expense of the City and shall be in addition to the annual agreement rate.

3.4. The City's Police Department, at its discretion, may issue animal at large citations from the information provided by WHS. This information will be received from WHS as per Section 4.6 of this Agreement.

4. RESPONSIBILITIES OF WATERTOWN HUMANE SOCIETY (WHS)

4.1. The WHS agrees to furnish and maintain facilities and equipment adequate for the maintenance, housing, shelter, care, euthanasia, and disposal of all animals unlawfully at large and to harbor them under and pursuant to the applicable ordinances of the City, the object being to keep such stray animals, to release them back to their owner or to any other person after service fees, as determined to be appropriate by WHS, have been paid, or to destroy them and dispose of the dead animals.

4.2. WHS will maintain current and accurate records of how all animals received are disposed of and allow the City and its employees open access and the ability to inspect such records as requested at all reasonable times. WHS will comply with §173 of Wisconsin Statutes pertaining to the animals.

4.3. Prior to any renewal of this Agreement under same or similar terms, WHS shall provide to the City annual financial statements and copies of income tax and informational or supplemental returns, documents, and additional financial statements as requested consisting of data comprising no less than twelve (12) months of WHS's fiscal activity. Except pursuant to the City's sole and exclusive discretion to

make waiver, no renewal of this Agreement under same or similar terms may be entered into unless WHS furnishes the materials in fulfillment of the foregoing not later than ninety (90) days prior to any expiration of the term hereunder.

4.4. WHS shall ensure that there are sufficient personnel on duty at the Watertown Humane Society during the following business hours:

Monday: CLOSED
Tuesday: 10am to 5pm
Wednesday: 10am to 5pm
Thursday: 10am to 5pm
Friday: 10am to 5pm
Saturday: 10am to 3pm
Sunday: CLOSED

4.4.1. These hours may change from time to time to better serve the community and animals. In the event the shelter hours change, the hours indicated above shall automatically be changed to reflect the new hours of operation upon written notice to the City.

4.4.2. WHS will be closed on the following holidays: New Years Day, Good Friday, Memorial Day, Independence Day (4th of July), Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day, and New Years Eve. WHS will inform the City in writing if the shelter will be closed any additional holidays.

4.4.3. Except under demonstrable extenuating circumstances, WHS will respond to all calls from the Watertown Police Department, routine or emergency in the following manner: WHS will respond within 60 minutes of calls placed between 7:00am to 7:00pm seven days a week; WHS will respond within 90 minutes of calls placed between 7:01pm and 6:59am, seven days a week and only if the situation is deemed an emergency by the police department.

4.4.3.1. An emergency call from law enforcement involves one of the following situations: 1) A critically wounded stray animal; 2) an animal in an abusive situation; 3) an animal that has bitten someone and requires assistance for removal; 4) an animal seized by a law enforcement officer under the provisions of §173.13 of Wisconsin Statutes and/or analogous City ordinances. Assigning an emergent nature to a call shall be at the sole and exclusive determination of a member of the City's Police Department.

4.5. It shall be the principal duty of WHS to furnish personnel equipped and prepared to assist between 7:00am and 7:00pm to respond within 60 minutes of calls placed within said hours, to assist in an emergency, and to report and work cooperatively with the City's Police Department during the investigation of complaints received from City residents when done in compliance with §173 of Wisconsin Statutes, analogous City ordinances or other applicable authority.

4.6. In instances of animals running at large, once WHS properly identifies the animal and the owner, this information shall be provided to the City of Watertown Police Department. At a minimum, the information shall include the owner's name, address, phone number(s) and a synopsis of the incident such as location, description of animal, date, time and police department incident number, if known.

4.7. Under no circumstances shall WHS allow a resident of the City of Watertown to adopt animals in a number that exceeds the numerical limits set forth in the relevant rules or regulations.

4.8 WHS shall provide a list of at least four emergency contacts to the City Police Department and Humane Officers. The four emergency contacts are responsible for complying with and responding to within sixty (60) minutes of all calls from the City Police Department placed between 7:00 a.m. and 7:00 p.m. and for responding to all emergency calls between 7:00 p.m. and 7:00 a.m. within ninety (90) minutes. Said list shall be updated within 5 days of any change to the contact list.

4.9 WHS shall reserve at least four (4) kennels for the use by the City of Watertown at all times as identified on Exhibit A. WHS may use some of the four (4) Kennels for other animals under its control for up to 24 hours, provided at least two (2) kennels are reserved for the City's use. This time may only be expanded on a case-by-case basis upon express permission granted by a Humane Officer or his delegate in his absence for the City of Watertown.

4.10 WHS shall provide the Police Department 24 hour access to the kennels reserved for the City of Watertown.

5. PUBLIC SAFETY AND SERVICE

5.1. Impoundment – the City will, whenever possible, provide written documentation to WHS in connection with the impoundment of an animal. WHS shall take delivery of impounded animals. WHS will not be responsible for obtaining any veterinarian care for an owned, impounded animal. If WHS decides, at its sole discretion to obtain veterinarian care for an owned, impounded animal, the owner will be responsible for reimbursing WHS the cost of all medical treatment. Release of said animal may be done only after impoundment requirements have been met. The City shall be exempt from any such bonds or costs.

5.2. Rabies Control/Bite/Quarantine Cases

5.2.1. Owner Known – WHS will not quarantine an animal which has bitten, and its owner is known unless ordered by the local law enforcement agency in special cases. The owner shall provide WHS with a minimum \$250 cash bond and pay daily costs for the custody and care of said animal during the quarantine period. If an animal is ordered to be euthanized, the owner may not be allowed to see or visit the animal once the animal is in quarantine.

5.2.2. Stray/Owner Unknown – WHS will work at the direction of the Health Department for quarantine and rabies submission as outlined in Wisconsin Statute § 95.21 involving stray or owner unknown animals. WHS will euthanize and dispose of the carcass of rabies specimens submitted to the Wisconsin State Lab of Hygiene. The Health Department must be notified by WHS in the event of any animal bite cases.

5.3. Seize and Rescue – WHS will work with the appropriate City departments to seize/rescue animals for the health and safety of the animals and for the health and safety of the public, but only a law enforcement officer will have the authority to seize an owned animal.

6. MUTUAL AGREEMENTS BETWEEN THE CITY AND WHS

6.1. WHS shall become the owner of all stray animals after the statutory period of impoundment has expired. No animals, dead or alive, will be sold or given away for purposes of experimentation or medical use. WHS shall not release any animal seized by, or at the direction of, the City Humane Officer without the authorization of the City Humane Officer or his delegate in his absence.

6.2. When space allows, WHS may accept animals for surrender at the shelter from citizens of the City. The surrender shall include a surrender fee to be paid by the animal's owner. If the Watertown Humane Society does not have space available, the animal will be placed on a waiting list until space opens. The staff of the Watertown Humane Society will guide and educate community members on the resources available to them to assist in the rehoming of their animals independently. The Watertown Humane Society reserves the right to refuse intake of any owner surrender at their discretion.

6.3. WHS will dispose of stray animal carcasses.

6.4. If an injured animal bearing a current rabies tag, identification tag or other information such that the owner can be identified is impounded, the WHS Manager or designee has the authority and discretion to take or send the injured animal to a licensed veterinarian after reasonable efforts are made to contact the owner of the injured animal. The owner will be responsible for reimbursing WHS the veterinarian costs related to the care of their animal.

6.5. WHS shall be responsible for all salaries and other benefits paid to WHS employees. In addition, WHS shall be responsible for providing Worker's Compensation Insurance and Unemployment Compensation Insurance for its employees, professional liability insurance for its employees and agents with limits of at least \$300,000.00 and commercial umbrella excess liability insurance with limits of at least \$500,000.00. Certificates of insurance showing compliance with this paragraph shall be provided to the City. The City shall be responsible for providing liability insurance covering its liabilities in this instance with the limits of coverage of at least \$50,000.

6.6. Each party to the Agreement shall perform all acts and execute and deliver all documents as may be necessary and proper under the circumstances to accomplish the intent and purpose of this Agreement to carry out its provisions.

7. HUMANE OFFICER PROVISIONS

7.1. One or more law enforcement officers, as appointed or assigned by the Chief of Police shall serve as the City Humane Officer.

7.1.1. All duties of the City Humane Officer shall be outlined in §173 of the Wisconsin Statutes and the City Humane Officer shall enforce all laws and ordinances relating to animals within the City, including but not limited to, the provisions of §173 of the Wisconsin Statutes, which had been adopted by the City. WHS shall act at the direction of the City Humane Officer and such action shall conform to the requirements of §173 of the Wisconsin Statutes.

7.1.2. The Humane Officer of the City and any other properly authorized delegate of the City shall possess all the authorities pursuant to §173 of the Wisconsin Statutes.

8. TERM

The term of this Agreement shall be from January 1, 2023 to December 31, 2023 and this Agreement shall automatically renew on January 1, 2024 for successive term of twelve (12) months and then on December 31 of said calendar year, 2024 and automatically renew thereafter for identical, successive twelve (12) month terms until and unless terminated for cause hereunder or upon written notice received by the non-terminating party on or before September 30 within the annual calendar term set to expire. This Agreement may be modified at any time as described in Section 12.2.

9. TERMINATION OF AGREEMENT

9.1. Termination of Agreement for Cause. If through any cause, either the City or WHS shall fail to fulfill in a timely proper manner its obligations under this agreement, or if either party violates any of the covenants or stipulations of this Agreement, the aggrieved party shall, prior to termination, give written notice to the other party of such violation and if the violation is not eliminated or cured within ten (10) days of personal delivery of such notice at the address given above for such party, the aggrieved party shall have the right to terminate this Agreement and specify the effective date thereof.

9.2. Termination for Convenience of the City or WHS. If for any reason either the City or WHS does not anticipate renewal of the Agreement at the end of the current term, written notice shall be given to the other at least 90 days before the termination date of the current Agreement.

9.3. Termination for Non-appropriation. If the City does not appropriate funds in the fiscal year in the amount equal to the price negotiated by the following agreement year, it is mutually agreed that this contract may be cancelled by either party; however, the City shall, to the extent reasonably possible, seek to maintain funding levels such that a suitable contingency plan for this situation can be planned for and implemented by WHS to prevent harm to the animals currently residing at WHS and to prevent harm or threat of harm to the community from stray animals posing a health threat.

10. NONLIABILITY

10.1. No person, firm, corporation or other entity shall obtain any civil liability remedy against the City or WHS, or their respective officers, employees or agents, for any damage, claims or causes of action arising out of or resulting from the execution of this Agreement. Furthermore, nothing in this Agreement is intended to be interpreted to expand any liability that either the City or WHS may have to any third parties. This Agreement is in no way intended to benefit any persons other than the parties to it and is not entered into with the intent to benefit any other person, firm, corporation or other entity, either directly or indirectly.

10.2. Nothing in this Agreement shall be construed to create any liability or waive any of the immunities, limitations on liability, or other provisions as conferred by laws of the State of Wisconsin and Federal government, including the notice provisions for governmental claims contained in § 893.80 of the Wisconsin Statutes . This Agreement does not confer any additional immunities or limitations on liability otherwise available to WHS, or the City, or their respective officers, employees, or agents.

10.3. The City agrees to authorize WHS to effectively carry out the City's obligations under this Agreement, and to take whatever action is reasonably required to effectuate such authorization. Such authority shall

include, but is not limited to, the authority to enforce the Wisconsin Rabies Law, and other local ordinances pertaining to Humane Officers. Other than the authorities specifically delegated to WHS by ordinance, contract or otherwise, WHS has no authority, as agent or otherwise, to bind the City to any legal obligation. WHS, its officers, agents or employees are independent contractors and are not agents or employees of the City.

10.4. Whenever any loss, costs, damage or expense occurs resulting from any casualty or incidents incurred by either of the parties to this Agreement in connection with the services rendered under this Agreement, and such party is then covered in whole or in parts by insurance with respect to loss, cost, damage or expense, the party is so insured by this Agreement releases the other party from any liability it may have an account of such loss, costs, damage or expense to the extent of the amount recovered by reason of such insurance, and waves the right of subrogation which might otherwise exist or accrue to any person on account of it, provided that such release of liability and waiver of the right of subrogation may not be operative in any case where the effect is to invalidate such insurance coverage or increase its cost. Such a waiver shall be evidenced in proper certificates or endorsements from appropriate carriers or insurance funds of the parties.

11. AUTHORITY

The parties signing below represent and warrant that they have the legal authority, by ordinance or otherwise, to enter into this Agreement and to bind the City to its terms. A copy of the resolution and a copy of the minutes from the appropriate meeting authorizing this action by the City shall be attached to the Agreement and included by reference here in.

12. NON-ASSIGNMENT, AMENDMENTS AND SEVERABILITY

12.1. This Agreement shall not be assignable to either party to it, or shall the performance of any of the duties under it be delegable to any party to it, without the express written consent of all the parties hereto. This Agreement shall not be assignable to operation of law.

12.2. Neither this Agreement nor any term or provision of it may be changed, waived, discharged, amended, modified or in any manner other than by an instrument in writing signed by both of the parties to this Agreement.

12.3. If any term or provision of this Agreement is at any time during the term of this Agreement, or any extension of the Agreement, determined by a Court of competent jurisdiction to be in conflict with applicable Federal law, State law, Federal or State administrative agency rule, or Federal or State judicial decision, such term or provision shall continue in effect only to the extent permitted by such law, rule, or decision. If such part of this Agreement cannot be amended to be applied under said law, rule or decision, then such term or provision shall be deemed invalid, however, the remaining provisions of this Agreement will remain in full force and effect, and the Agreement will be enforced and interpreted to extent possible without said conflicting provisions.

12.4. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Wisconsin, without giving effect to principles and provisions of those laws relating to conflict or choice of laws.

[SIGNATURE PAGE TO FOLLOW]

WATERTOWN HUMANE SOCIETY, INC.

CITY OF WATERTOWN

BY: Kathy Polensky

Kathy Polensky, Board President

DATE: 12-21-22

Primary Contact for
Watertown Humane Society, Inc.

Heather VanDam

Executive Director

418 Water Tower Court

Watertown, WI 53094

manager@whsadopt.org

BY: _____

Emily McFarland, Mayor

DATE: _____

Primary Contact for
City of Watertown

City Attorney Steven T. Chesebro

106 Jones Street

Watertown, WI 53094

Approved as to form and sufficiency:

City Attorney
State Bar No. 1074496

