

**SERVICE AGREEMENT BETWEEN
THE CITY OF DOUGLAS, WYOMING
AND LARAMIE PEAK HUMANE SOCIETY**

WHEREAS, Laramie Peak Humane Society (LPHS) desires to operate the Douglas animal shelter facility as a non-profit organization and to provide certain services, and;

WHEREAS, pursuant to Wyo. Stat. §15-1-103(a)(xlv) the City is authorized to contract with nonprofit corporations to provide human services for persons within its jurisdiction; and

WHEREAS, pursuant to W.S. §15-1-103(a)(xiv), the City is responsible for regulating or prohibiting the running at large within the city limits of any animals and establish and provide for the operation of a pound; and

WHEREAS, the Organization provides support and/or services to the members of the public within the City and the City Council has agreed to provide public funding as outlined within the terms and subject to the conditions set out in this Agreement; and

WHEREAS, the parties recognize that the facility is intended to serve the law enforcement and public needs of the City by providing, among other things, a humane facility for the care and disposition of animals taken into custody by the animal control officers of the Douglas Police Department and;

WHEREAS, the facility is also intended to serve the broader needs of the citizens of the Douglas area by providing a central location to properly provide for the care of unwanted, mistreated or stray animals that may be returned to their owners or adopted out to new owners, and;

WHEREAS, to promote public welfare, it is intended by the parties that a joint effort be made to operate the Facility with a combination of public and private funds.

NOW, THEREFORE, in consideration of the promises, agreements and mutual covenants made herein, it is agreed by and between the City and LPHS as follows:

1. **PARTIES.** This Contract is made and entered into by and between City of Douglas, Wyoming, a Wyoming municipal corporation (hereinafter referred to as “City”), whose address is 101 N. 4th Street, P.O. Box 1030, Douglas, Wyoming 82633, and Laramie Peak Humane Society, a non-profit Corporation (hereinafter referred to as “LPHS”), whose address is 612 N. 2nd Street, P.O. Box 463, Douglas, Wyoming 82633.
2. **PREMISES.** LPHS has secured a lease from Converse County for the real property, commonly described as the Douglas Animal Shelter, together with parking lot and related improvements erected thereon, with all of the rights, privileges, easements and appurtenances thereto.
3. **TERM.** This Agreement shall be effective as of the 1st day of July, 2019, and shall continue until the 30th day of June, 2020, at which time the contract shall terminate. This Agreement may be renewed for additional one-year increments by mutual written agreement between the parties, unless otherwise cancelled by either party providing 30 days’ notice during the contract period.
4. **USE OF THE PREMISES.** Subject to lease agreement with Converse County, LPHS shall have the exclusive use and control of the premises for animal sheltering purposes in providing residents of the City of Douglas, Converse County and others with adoption service, impoundment and other animal shelter functions under the conditions set forth in Section (7) below, and related incidental purposes for any other legally permissible business or commercial venture. LPHS shall not use the premises in such a manner as to violate any applicable law, rule, ordinance, or regulation.
5. **OPERATION OF FACILITY.** LPHS agrees to operate facility as a public animal shelter and to comply with the provisions of Chapter 6 of the Douglas Municipal Code pertaining to animals. LPHS agrees to provide a humane facility for the care and disposition of animals taken into custody by the Animal Control Personnel or agents of the Douglas Police Department. LPHS also agrees to take possession of adoptable animals surrendered by private citizens of Converse County when space is available. For purposes of this agreement, “disposition” shall mean the

authority to make decisions regarding animals housed at LPHS, including, but not limited to, final placement and transfer.

6. **COMPENSATION.** City agrees to compensate LPHS One Hundred and Five Thousand Dollars and no cents (\$105,000.00), of which \$5,000.00 must be used toward the spay/neuter program, during fiscal year 2019-20 for services provided subject to receipt of annual funding request using the annual City budgetary appropriation process. The following conditions apply:

- A. Organization shall submit to the Administrative Services Department, certified under penalty of perjury, a full itemized statement or invoice for payment in writing, including documentation verifying actual costs incurred for the invoiced period (e.g. receipts, expense report, financial statement, etc.).
- B. The City may require additional documentation which evidences that the performance measures under this Agreement have been achieved.
- C. Payment will not be made by the City unless and until satisfactory evidence of costs incurred have been submitted and approved.
- D. Subject to this Agreement, City will pay sum to Organization within 45 days of receipt of statement or invoice and other requested documents.

7. **REVENUE RECEIVED – USER FEES, CONTRIBUTIONS.**

- A. LPHS shall retain all revenues received at shelter from whatever source, including adoption fees, boarding fees or other contributions.

8. **LPHS AGREES TO:**

- A. Supervise and manage shelter in a business-like and professional manner.
- B. Provide daily boarding, care, and arrangements for euthanasia of animals housed and/or disposed of at the Douglas Animal Shelter in accordance with ordinances and resolutions adopted from time to time by City and according to the standards of training, animal capacity and health protocols recommended by the Humane Society of the United States.
- C. Accept animals and non-vicious dogs twenty-four (24) hours per day at the shelter from City Animal Control personnel or agents, or adoptable animals brought to the shelter by private citizens for surrender during shelter business hours. Access by City shall be by means of a secured area to the kennels in order to deliver animals to the shelter.
- D. Provide adequate staff to maintain Facility and to carry on the business of an animal shelter, including the ability to respond to emergencies after hours to care for animals and/or make arrangements for shelter when necessary.
- E. Care for the animals delivered to them, which shall include obtaining veterinary care as necessary for injured and sick animals.
- F. Collect and retain fees related to animal care and adoption, including impoundment fees, boarding charges and adoption fees.
- G. Accept requests from city residents to surrender their adoptable animals to the LPHS for adoption or other disposition when space is available. No fee shall be charged for such surrender by residents of the City of Douglas. Surrender requests by non-City residents will be accepted on a space-available basis.
- H. Arrange for euthanasia of animals that cannot appropriately be returned to their owners or adopted, according to city ordinance.
- I. Per Chapter 6.08.080 of Douglas Municipal Code, LPHS will hold surrendered and licensed animals for a minimum of seven (7) days; and all unlicensed animals, with the exception of cats, for a minimum of five (5) days; and all unlicensed cats for a minimum

of three (3) days, prior to adoption or other disposition regardless of availability of owner to reclaim dog due to circumstances including incarceration or hospitalization.

- J. City agrees to quarantine all dogs that are deemed vicious according to City Ordinance 6.08.160 at a veterinary clinic, the costs of which will be the responsibility of either the owner or the City for all matters of dog bites on other animal or person. LPHS agrees to house vicious dogs in the emergency situation that there is not available room at either veterinary clinic in Douglas. The City agrees to cage and transport any vicious dog to and from LPHS. City also agrees to remove any vicious dog from LPHS immediately as soon as room is available at either veterinary clinic. The humane society houses primarily dogs and cats, and agrees to accept for temporary emergency placement any domesticated animal, excluding reptiles, that does not present a clear and present danger to LPHS staff, for a maximum of forty-eight (48) hours.

9. CHARGES AND TAXES. LPHS shall pay, when due, during the term hereof:

- A. All charges for utilities incurred at the premises including user fees, deposits, and repairs.
- B. All sales and use taxes imposed as a result of operation of facility.
- C. All personal property taxes assessed against personal property situated thereon.

10. INDEMNIFICATION. LPHS shall defend, indemnify and hold harmless the City, and its officers and employees, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorney's fees) and negligence of whatever kind and nature, imposed on, incurred by, or asserted against City which in any way relates or arises out of LPHS's possession, use, enjoyment, operation, of animal shelter unless caused solely and intentionally by City or its agents.

11. NOTICES AND DEMANDS. Any notices, statements, requests, consents, approvals, authorizations, offers, agreements, appointments, designations, or demands required or permitted by law, or any provision thereof, shall be in writing, and shall be sufficiently given and served upon the other party, if deposited in the United States Mail, registered or certified, postage pre-paid, with return receipt requested, and addressed as follows:

- A. **CITY:** City of Douglas, P.O. Box 1030, Douglas, Wyoming 82633
- B. **LPHS:**Laramie Peak Humane Society, P.O. Box 463, Douglas, Wyoming 82633

11. TERMINATION BY REASON OF DEFAULT. In the event that either of the parties hereto shall fail to perform any covenant required to be performed by such party under the terms and provisions of this Agreement and such failure shall continue unremedied or uncorrected for a period of thirty (30) days after the service of written notice upon such party by the other party hereto, specifying such failure, this Agreement may be terminated, at the option of the party serving such notice, at the expiration of such period of thirty (30) days; provided, however, that such termination shall not relieve the party so failing from liability to the other party for such damages as may be suffered by reason of such failure.

12. MISCELLANEOUS.

- A. No waiver or any breach hereof by City shall be considered to be a waiver of any other or subsequent breach.
- B. Whenever, by this agreement, consent of approval of a party is required prior to any act, such party shall respond promptly to any request therefore from the other party and consent or approval shall in no case be unreasonably withheld.
- C. City shall have the privilege of inspecting the animal shelter premises at any and all reasonable times without prior notice of such inspection.

13. AMENDMENT OR MODIFICATION. No amendment or modification of this agreement shall be valid or binding unless expressed in writing and executed by the parties hereto in the same manner as the execution of this agreement.

14. **APPLICABLE LAW/VENUE.** The construction, interpretation and enforcement of this Contract shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Contract and the parties, and the venue shall be the Eighth Judicial District, Converse County, Wyoming.
15. **COMPLIANCE WITH LAWS.** LPHS shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Contract.
16. **ENTIRETY OF CONTRACT.** This Contract represents the entire and integrated Contract between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.
17. **ETHICS.** LPHS shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat. §9-13-101, et seq.), and any and all ethical standards governing LPHS's profession.
18. **FORCE MAJEURE.** Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.
19. **INDEPENDENT CONTRACTOR.** The LPHS shall function as an independent Contractor for the purposes of this Contract, and shall not be considered an employee of the City for any purpose. The LPHS shall assume sole responsibility for any debts or liabilities that may be incurred by the LPHS in fulfilling the terms of this Contract, and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the LPHS to incur any obligation of any kind on the behalf of the City or its staff. The LPHS agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to City employees will inure to the benefit of the LPHS or the LPHS's agents and/or employees as a result of this Contract.
20. **GOVERNMENTAL IMMUNITY.** City does not waive government immunity by entering into this Contract and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(a) and all other state law.
21. **TAXES.** The LPHS shall pay all taxes and other such amounts required by federal, state and local law, including but not limited to federal and social security taxes, workers' compensation, unemployment insurance and sales taxes.
22. **THIRD PARTY BENEFICIARY RIGHTS.** The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Contract shall not be construed so as to create such status. The rights, duties and obligations contained in this Contract shall operate only between the parties to this Contract, and shall inure solely to the benefit of the parties to this Contract. The provisions of the Contract are intended only to assist the parties in determining and performing their obligations under this Contract. The parties to this Contract intend and expressly agree that only parties' signatory to this Contract shall have any legal or equitable right to seek to enforce this Contract, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Contract, or to bring an action for the breach of this Contract.
23. **INSURANCE.** The LPHS shall maintain the following insurance: (This amount can vary and if professional insurance will need to include professional liability insurance)
 - A. **COMPREHENSIVE GENERAL LIABILITY.** LPHS shall have and maintain comprehensive general liability insurance coverage during the entire term of the Contract, against claims arising out of bodily injury, death, damage to or destruction of the property

of others, including loss of use thereof and including underground, collapse, and explosion (XCU) and products and completed operations in an amount not less than one million dollars (\$250,000.00) each occurrence and two million dollars (\$500,000.00) in general aggregate.

- B. WORKERS' COMPENSATION OR EMPLOYERS LIABILITY INSURANCE.** LPHS shall provide proof of workers' compensation coverage, for all its employees who are to work on the projects described in this Contract. LPHS's coverage shall be under the Wyoming Workers' Safety and Compensation program, if statutorily required or such other workers' compensation insurance as appropriate. LPHS's insurance shall include a Stop Gap coverage in the amount not less than five hundred thousand dollars (\$500,000.00) per employee for each accident and disease. LPHS shall have also supply proof of workers' compensation and employer's liability insurance on each and every sub-consultant before allowing that sub-consultant on the job site.
- C. BUSINESS AUTOMOBILE LIABILITY.** LPHS shall maintain, during the entire term of the Contract, automobile liability insurance in an amount not less than five hundred thousand dollars (\$500,000.00) per occurrence.
- D. COVERAGE.** All policies required under this contract shall be in effect for the duration of this Contract and projects. All policies shall be primary and not contributory. LPHS shall pay the premiums on all insurance policies and insurance certificates must include a clause stating that the insurance may not be revoked, cancelled, amended or allowed to lapse until the expiration of at least thirty (30) days advance written notice to the City.
- E. ADDITIONAL INSURED.** All insurance policies required by this contract, except workers' compensation, shall name the City as an additional insured, and shall contain a waiver of subrogation against the City, its agents and employees. LPHS shall provide, upon request a copy of an endorsement providing this coverage.
- F. CITY'S RIGHT TO REJECT.** City reserves the right to reject a certificate of insurance if LPHS's insurance company is widely regarded in the insurance industry as financially unstable. This would include but is not limited to insurance companies with no less than AVIII rating in the A.M. Best insurance rating guide.
- G. CANCELLATION.** There shall be no cancellation, material change, potential exhaustion of aggregate limits or intent to not renew insurance coverage without thirty (30) days written notice from LPHS or their insurers to City. Any failure to comply with the reporting provision of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverage provided to City and its division, officers and employees.

24. **TIME IS OF THE ESSENCE.** Time is of the essence in all provisions of the Contract.

25. **TITLES NOT CONTROLLING.** Titles of paragraphs are for reference only, and shall not be use to construe the language in this Contract.

26. **WAIVER.** The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the _____ day of _____, 2019.

LARAMIE PEAK HUMANE SOCIETY

CITY OF DOUGLAS

By: _____

By: _____
Rene' Kemper, Mayor

Title: _____

State of Wyoming)
)
County of Converse) ss.

On this _____ day of _____, 2019, before me personally appeared Rene' Kemper, Mayor of the City of Douglas, personally known to me to be the person whose name is subscribed to the attached and foregoing Service Agreement with the Laramie Peak Humane Society, and acknowledged that she executed the same for the purposes therein expressed.

WITNESS my hand and official seal.

Notary Public

State of Wyoming)
)
County of Converse) ss.

On this _____ day of _____, 2019, before me personally appeared _____, as _____ of Laramie Peak Humane Society, personally known to me to be the person whose name is subscribed to the attached and foregoing Service Agreement with the City of Douglas, and acknowledged that he/she executed the same for the purposes therein expressed.

WITNESS my hand and official seal.

Notary Public