

Approved as to form only:


Date: 6/30/21

CONTRACT NO. _____

**AGREEMENT BETWEEN THE CITY OF CHEYENNE
AND THE CHEYENNE ANIMAL SHELTER/SERVICES
FOR ANIMAL CONTROL AND ANIMAL SHELTER SERVICES**

1. **Parties.** The parties to this Agreement are the City of Cheyenne, a municipality duly organized and existing under the laws of the State of Wyoming, hereafter "City," whose address is 2101 O'Neil Avenue, Cheyenne, Wyoming 82001, and the Cheyenne Animal Shelter, a non-profit Wyoming corporation organized and existing under the laws of the State of Wyoming, hereafter "Shelter" or "Contractor," whose address is 800 Southwest Drive, Cheyenne, Wyoming 82007.

2. **Purpose of Agreement.** The purpose of this Agreement is to authorize the Contractor to furnish the City with animal control and animal shelter services as set forth in this Agreement.

3. **Term.** This Agreement is effective upon approval and execution by the parties. The term of this Agreement shall be from July 1, 2021, through July 31, 2021, and then continuing monthly (month-to-month) until terminated by either party. The Parties may, by mutual agreement, renew this Agreement for additional terms, through an amendment reflecting then-current payment and any other relevant changes.

4. **Payment.** City agrees to pay the following amounts for the services described herein:

a. **For Animal Control Services:** Thirty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$33,333.33) per month for the services described herein. In no event shall the amount paid under this Agreement for Animal Control Services exceed Two Hundred Thousand Dollars (\$200,000.00) which caps services at six (6) months.

b. **For Animal Shelter Services:** Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) per month for the services described herein. In no event shall the amount paid under this Agreement for Animal Shelter Services exceed Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) which caps services at six (6) months.

c. No payment shall be rendered for services furnished prior to the effective date of this Agreement.

5. **City's Responsibilities.**

a. The City shall make payment as agreed in this Agreement.

b. The City shall promptly report any concerns or complaints received about either animal control or animal shelter services directly to the Contractor, attention Chief Executive Officer.

c. The City may appoint a member from its governing body to serve as a non-voting ex-officio member of Contractor's Board.

6. Contractor's Responsibilities. Contractor shall provide the following services during the term of this Agreement:

a. For Animal Control Services:

i. Operate an animal control department, including a physical plant and necessary equipment for effective animal control;

ii. Enforce City codes relating to animal control including, but not limited to, the issuance of warnings, summons, citations, and rabies quarantine orders;

iii. Provide vehicles and equipment necessary to perform the duties of animal control in a humane fashion including, but not limited to, two-way radios and devices necessary to capture, hold, and transport animals;

iv. Use professionally-trained personnel authorized by the City in the exercise of animal control functions and provide uniforms clearly identifying personnel as animal control officers;

v. Employ and schedule sufficient personnel to perform animal control duties within the City daily from 8:00 a.m. to 8:00 p.m. including the provision of emergency animal control services twenty-four (24) hours per day and seven (7) days per week. For the purpose of this Agreement, "emergency animal control services are defined as any seriously injured dog or cat, aggressive dogs or cats posing an immediate threat to public safety, neglected animals during inclement weather, and at the request of any other public safety agency."

1. The Shelter will house and care for the animals designated below for a maximum of (10) ten days. After the expiration of ten (10) days, the Shelter will either maintain or release the animals(s) as directed by the appropriate City authority (Cheyenne Police Department, City Attorney, Municipal Court Judge, etc.). In order for the Shelter to maintain the animals, the appropriate City authority must pay in advance to the Shelter Thirty Dollars (\$30.00) per day for housing and care of the animal. Payment must be made in advance for thirty (30) days. Any remaining balance will be refunded to the appropriate City authority.

vi. Establish and maintain records documenting calls and investigations conducted by animal control officers including, but not limited to, records of complaints received and the resolution of each complaint, citations, and warnings issued, quarantine orders issued, records of animal bite cases reported, and current rabies vaccination records;

vii. Provide local law enforcement officers with 24/7 access to the Shelter's impound room to drop off seized or stray animals. Any law enforcement officer utilizing the Shelter's impound room are required to fill out all appropriate paperwork listing the location animal was found, any potential owner information, reason for seizing the animal, and contact information for the officer dropping off the animal. In the event of a stray animal health emergency, the local law enforcement officer will have 24/7 access to the Shelter's in-house and on-call veterinarian for consult;

viii. Contractor shall not allow animal control officers to carry firearms while serving in that capacity. In such instances where Contractor may deem it necessary, Contractor shall request assistance from the Cheyenne Police Department.

b. For Animal Shelter Services:

i. Provide housing and adequate care for all animals placed under its custody by the animal control authority and/or local law enforcement, as limited by fiscal constraints;

ii. Pay the daily operating expenses of the animal shelter;

iii. Take reasonable steps to spay or neuter animals before adoption;

iv. Maintain a reasonable and adequate schedule for the operation of the animal shelter;

v. Provide periodic listings of all lost and found animals handled by the Contractor;

vi. Conduct fund raising activities, public education programs, and any other programs to further the objectives of the Contractor and the City; and

vii. It is mutually agreed and understood that when the Shelter is at maximum capacity and it becomes necessary to impound an animal presenting a danger to the public, the Contractor is authorized to make space for such animal or animals, by releasing to the custody of the owner, an animal or animals which poses less of a hazard to the public.

c. For all services provided:

i. Contractor shall furnish to the City, through the Mayor's office, monthly reports reflecting such animal control and shelter statistics as are collected under industry best practices standards. The report shall also include a description of any complaints made regarding animal control services and the resolution of those complaints; the number of volunteer service hours provided; and any public education programs conducted;

ii. Contractor shall retain all donations, fees, and other monies raised, including revenue generated by any agreement with a third party. Contractor shall provide a detailed report of all such donations, fees, and other monies raised to the Mayor upon request;

iii. Any unexpended funds from the City's appropriation for animal shelter services shall be placed in a fund for improvement of the animal shelter facilities; such funds shall not be deemed property of the City. The Contractor shall report the amount of any unexpended funds to the City through the Mayor's office upon request, if requested, shall provide information on the shelter facility improvement plan;

iv. Contractor shall maintain financial records in accordance with generally accepted accounting principles and make such records available for inspection by the City at reasonable times and, if requested by the City, at its expense, for audit;

v. Any property which remains in a usable condition and which was purchased with City funds provided through this Agreement shall be returned to the City upon final termination of this Agreement and any subsequent agreements; and

vi. Once every five (5) years, Contractor shall conduct an audit of its policies and procedures by a nationally-recognized organization engaged in the business of animal protection, control, and shelter services and invoice the City for the cost thereof.

7. **Insurance.**

a. The Contractor shall maintain insurance coverage as follows:

i. Commercial General Liability Insurance: Contractor shall provide coverage against claims arising out of bodily injury, illness and death, and from damage to or destruction of property of others, including loss of use thereof, with minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate, for the entire term of this Agreement.

ii. Business Automobile Insurance: Contractor shall provide coverage for bodily injury and property damage arising out of the use of an automobile, including owned, non-owned, and hired vehicles with minimum limits of \$1,000,000.00 per accident, for the entire term of this Agreement.

iii. Workers' Compensation: Contractor shall provide proof of coverage in effect as required by Wyoming law, for all employees or agents providing services under this Agreement.

b. The City shall be named as an additional insured by endorsement on Contractor's insurance policies, with the exception of workers' compensation, and Contractor shall furnish the City with a copy of the policies and/or policy endorsements. The City's failure to request or review such policies, endorsements, or certificates shall not affect the City's rights or Contractor's obligation hereunder.

c. It is mutually understood and agreed by the Parties that these policies are primary and not contributory. All policies required under this Agreement shall be in effect for the duration of this Agreement. It shall be an affirmative obligation upon Contractor to immediately notify in writing the city risk manager, city clerk, and city attorney of any fact, circumstance or occurrence that has resulted in or may result in the cancellation of or substantive change to any insurance coverage required by this Agreement, and failure to do so shall be construed to be a breach of this Agreement.

d. Any insurance company providing coverage under this Agreement shall have a minimum A.M. Best rating of A- (Excellent).

e. The Contractor shall provide a copy of this Agreement to its insurance providers. Contractor shall advise the City in writing of any difficulties in obtaining the required insurance coverage.

8. **General Provisions.**

a. **Amendments.** Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the Parties to this Agreement shall be incorporated by written instrument, executed, and signed by all Parties to this Agreement.

b. **Applicable Law.** The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The courts of the State of Wyoming shall have jurisdiction over this Agreement and the Parties, and the venue shall be in the First Judicial District, Laramie County, Wyoming.

c. **Compliance with Laws.** The Contractor shall keep informed of and comply with all applicable federal, state, and local laws and regulations, and industry standards in the performance of this Agreement.

d. **Entirety of Agreement.** This Agreement, consisting of six (6) pages, represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

e. **Indemnification/Hold Harmless.** The Contractor agrees to indemnify, hold harmless, and defend the City from and against any and all liabilities, claims, penalties, forfeitures, and suits, and the cost and expenses incident thereto including reasonable attorney's fees, which may hereafter arise as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations, or orders to the extent caused by (1) Contractor's breach of any term or provision of this Agreement, or (2) any negligent or wrongful act, error or omission by Contractor, or its employees or subcontractors in the performance of this Agreement. Contractor acknowledges that it may incur a financial obligation to the City pursuant to the terms of this paragraph.

f. **Independent Contractor.** The Contractor shall function as an independent contractor for the purposes of this Agreement. The Contractor shall assume sole responsibility for any debts or liabilities that may be incurred by the Contractor in fulfilling the terms of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the Contractor or its agents or employees to act as an agent or representative of or on behalf of the City or to incur any obligation of any kind on the behalf of the City.

g. **Notice.** All notices arising out of or from the provisions of this Agreement shall be in writing and given to the Parties either by regular mail or delivery in person.

h. Nondiscrimination. The Contractor shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act, Wyo. Stat. § 27-9-105, *et seq.*, and the Americans with Disabilities Act (ADA), as amended, 42 U.S.C. § 12101, *et seq.* The Contractor shall assure that no person is subjected to discrimination because of age, sex, race, religion, national origin, or disability in connection with the performance of this Agreement.

i. Prior Approval. This Agreement shall not be binding upon either party, no services shall be performed under the terms of this Agreement nor shall payment be made until this Agreement has been reduced to writing and approved by all necessary authorities.

j. Governmental Immunity. Nothing in this Agreement shall be deemed to have waived the City's governmental immunity, as provided by any applicable law including Wyo. Stat. § 1-39-101, *et seq.* Further, the City fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract, or any other theory of law, based on this Agreement.

k. Termination. The City may terminate this Agreement for cause immediately without notice or liability in the event the Contractor fails to perform. Either Party may terminate this Agreement without cause upon fourteen (14) days written notice before end of month.

9. Signatures. In witness thereof, the parties to this Agreement, through their duly authorized representatives, have executed this Agreement on the days and dates set out below and certify that they have read, understood, and agreed to the terms and conditions of this Agreement.

CITY OF CHEYENNE, WYOMING

Date

Patrick Collins, Mayor

(SEAL)

Attest:

Kristina F. Jones, City Clerk

CHEYENNE ANIMAL SHELTER/SERVICES

Date

President and CEO