

THIS AGREEMENT made this _____ day of _____ 2022, pursuant to the provisions of Section 114 of the Agriculture and Markets Law, by and between the TOWN OF BINGHAMTON, party of the first part, a municipal corporation organized under the laws of the State of New York (mailing address: TOWN OF BINGHAMTON, 279 Park Avenue, Binghamton, NY 13903) (hereinafter referred to as the "Town"), and BROOME COUNTY HUMANE SOCIETY RELIEF ASSOCIATION, INC., party of the second part, a not-for-profit corporation duly organized and existing under the Not-For-Profit Corporation Law of the State of New York as an Incorporated Society for the Prevention of Cruelty to Animals (having its office and principal place of business at 167 Conklin Ave., Binghamton, NY 13903) (hereinafter referred to as the "Society").

WHEREAS, the Society owns and operates a shelter for the care of dogs, and the Town requires a facility suitable for such shelter and care under Article 7 of the New York Agriculture and Markets Law, and

WHEREAS, the Town desires to utilize the services of the Society and to have access to said shelter, NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements

contained herein, the Society and the Town do hereby agree as follows:

1. The Society shall, at its own cost and expense, maintain a shelter for dogs seized within the Town by an authorized Town Dog Control Officer in accordance with Article 7 of the Agriculture and Markets Law and delivered to the Society's shelter by such an authorized Town Dog Control Officer. The Society's duties with respect to said dogs shall be performed at the cost and expense of the Society, and shall be as follows:
 - a. To provide complete and immediate access to full-sized kennels for all dogs seized within the Town and entering the Society's facility, regardless of the time such dog is received;

- b. To make staff available on-site daily to assist with receiving dogs;
- c. To properly shelter, care, feed and water such dogs in accordance with applicable provisions of law and regulations promulgated thereunder, for a minimum five (5) Day period as required by the Agriculture and Markets Law;
- d. In any case involving a dangerous dog complaint, the Society will hold the dog for a quarantine time of at least ten (10) days. The dog may be released at an earlier time if a Court issues a court order releasing the dog earlier;
- e. To scan all dogs received which were seized within the Town for a microchip identification device;
- f. Where the owner of a dog is known, to notify such owner personally or by certified mail, return receipt requested, of the seizure of the dog and the procedure for redemption of the same, and to allow the owner at least seven (7) days to redeem the dog if notified personally, or at least nine (9) days if notified by mail;
- g. If the owner of a dog is unknown, to make such dogs available for redemption by their owners for a period of time equal to or greater than the minimum redemption period of five (5) days and to place "lost" ads on The Humane Society Facebook page and their website (newspapers no longer provide free ad services) thereby attempting to locate their owners for said minimum redemption period;
- h. To contact the Town Dog Control Officer prior to releasing a dog to its owner,

adopting out a dog or euthanizing a dog, so that the Town Dog Control Officer can collect from such owner any fees, charges or outstanding fines or penalties owed by such owner to the Town;

- i. To make such dogs available for adoption or euthanization pursuant to Section 117 (7) of the Agriculture and Markets if, at the end of the appropriate redemption period, said dog has not been redeemed by its owner;
- j. The Society shall not release dogs being redeemed from the Society's shelter unless the owner has provided proof of ownership of said dog and a current and valid license number for the dog and has otherwise demonstrated that the dog is properly licensed;
- k. To collect impoundment fees and adoption fees;
- l. To provide all veterinary services for said dogs, including those that are sick or injured at the time the Town delivers said dogs to the Society for impoundment;
- m. To arrange for a veterinarian or certified euthanasia technician to humanely euthanize any dog for which euthanization is necessary and legally authorized in accordance with the requirements of Section 374 of the New York Agriculture and Markets Law, and to arrange for the proper disposal and/or cremation of any dogs so euthanized;
- n. To prepare, retain, and make available to the Town complete and accurate records concerning the care and disposition of all dogs cared for by the Society hereunder as well as any expenses incurred and any fees collected.

2. The Society shall not accept for impoundment any dogs which:

- a. Are in need of veterinary services, except in accordance with Paragraph 1(j), or
- b. Are not accompanied by the appropriate Town Dog Control Officer's

seizure report or authorization.

3. The Society shall accept from the Town Dog Control Officer any homeless, stray, abandoned, neglected, abused dogs or any other dogs which are otherwise picked up by the Dog Control Officer(s) in the Town. The Society shall allow the Dog Control Officer(s) of the Town access to its shelter twenty-four (24) hours a day, seven (7) days a week. The Dog Control Officer will also be provided with cellphone numbers to the Executive Director, Shelter Manager and Animal Cruelty Investigator should they need to contact any of these Humane Society members immediately.
4.
 - a. Inconsideration for the above-mentioned services, the Town shall remit to The Society, within twenty (20) days after the Town Board has audited and approved for payment the Society's voucher, the sum of \$275 for each stray dog brought in by the Town Dog Control Officer(s) to the Society's shelter during the term of this Agreement. This fee includes any necessary emergency veterinary care that may arise. If a dog is quarantined by order of the Dog Control Officer, the Town shall pay the Society fifteen Dollars (\$15.00) per each day of confinement.
 - b. The redemption fee to be paid by the owner of any dog brought by the Town Dog Control Officer to the Society's shelter shall be \$50.00 (fifty dollars) per dog, \$20.00 (twenty dollars) of which shall be refunded/credited to the Town by the Society on the next quarterly billing of such redemption fee or may be deducted from voucher total. This refund assists in offsetting any expenses incurred by the Town relating to owner redemption processes.
 - c. No payments shall be made by the Town to the Society hereunder until the Society has presented to the Town a properly detailed and signed voucher and until said voucher has been audited and approved for payment by the Town

Board of the Town.

5. Nothing contained herein shall limit the Society's rights under Section 183 of the Lien Law or Section 373 of the Agriculture and Markets Law, or as derived from any other general or special law, or by means of any civil action or proceeding to recover from the owner thereof any necessary or reasonable costs and expenses incurred by the Society in providing pound and shelter for any Town dogs. Nothing contained herein shall limit the Town's rights under applicable provisions of law, or by means of any civil action or proceeding, to recover from the owner of any dog delivered by the Town to the Society's shelter any fees, charges or outstanding fines or penalties owed by such owner to the Town. Nothing herein shall obligate the Town to deliver to the Society any minimum number of dogs in the Town by the Town Dog Control Officer(s).
6. The term of this Agreement is from January 1, 2023 through and including December 31, 2025, unless earlier terminated pursuant to the provisions of Paragraph 8.
7. The Society shall not commence services under this Agreement until it has obtained all insurance required under this Paragraph and such insurance has been approved by the Town.
 - a. Compensation Insurance - The Society shall take out and maintain during the life of this Agreement Worker's Compensation Insurance, as required by the New York State Workers' Compensation Law, for its employees to be assigned to the work contemplated hereunder.
 - b. General Liability and Property Damage Insurance - The Society shall

take out and maintain during the life of this Agreement such general liability and property damage insurance as shall protect it from claims for damages for personal injury and death, as well as from claims for property damage which may arise from operations under this Agreement. The amounts of such insurance shall be as follows:

General Liability Insurance in an amount not less than \$500,000 for injuries, including wrongful death to any one person, and subject to the same limit for each person, in an amount not less than \$1,000,000 on account of any one occurrence.

Property Damage Insurance in an amount not less than \$300,000 for damage on account of all occurrences.

The Society shall furnish copies of the above-described insurance policies to the Town and shall also arrange to have the Town named as an additional named insured in said policies.

- c. Any incident involving a dog originating in the Town shall be reported to the office of the Supervisor of the Town as soon as possible and not later than twenty-four (24) hours from the time of such incident. A detailed written report concerning such incident must be submitted to the Town as soon thereafter as possible and not later than three (3) business days after the date of such incident.
8. The Town shall have the right to cease performing (except for the payment of past services rendered) or terminate this Agreement if:
 - a. The Society is adjudged bankrupt or makes an assignment for the

benefit of creditors; or

- b. A receiver or liquidator is appointed for the Society or for any of its property and is not dismissed within 20 days after such appointment or the proceedings in connection therewith are not stayed on appeal within the said 20 days; or
- c. The Society fails or refuses to comply with all applicable statutes, local laws, ordinances, codes, rules and regulations; or
- d. The Society is guilty of a substantial violation of any provision of this Agreement; or
- e. In any event, the Town, with or without cause, without prejudice to any other rights or remedies it may have, may upon thirty-days prior written notice to the Society, terminate this Agreement, the services of the Society and the Town's rights to proceed hereunder.

9. The Society shall have the right to cease performing or terminate this Agreement if the Town is guilty of a substantial violation of any provisions of this Agreement.

10. It is hereby mutually covenanted and agreed that the relation of the Society to the services to be performed by it under this Agreement shall be that of an independent contractor. As an independent contractor, the Society will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said service, whether or not the Society, its agents, or employees have been negligent. The Society shall hold the Town harmless and keep the Town free and discharged of any and all responsibility and liability of any sort

or kind with respect to the services to be provided by the Society hereunder. The Society shall assume all responsibility for risks or casualties of every description, for loss or injury to persons or property arising out of the nature of the services, from the action of the elements, or from any unforeseen or unusual difficulty. The Society shall assume all blame, loss and responsibility of any nature by reason of neglect or violation of any federal, state, county or local statutes, local laws, ordinances, codes, rules or regulations.

11. The Society agrees to defend, indemnify and hold harmless the Town, its officers, agents and employees from any and all claims, actions, suits, causes of action, judgments and liability imposed upon the Town, its officers, agents and/or employees arising from the negligence, active or passive, of the Society. The foregoing provisions concerning indemnification shall not be construed to indemnify the Town for damages arising from bodily injury to a person, death, or property damage contributed to, caused by, or resulting from the sole negligence of the Town or its officers, employees, or agents.
12. In accordance with the provisions of Section 109 of the General Municipal Law, the Society is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its rights, title or interest in this Agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.
13. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party, this

Agreement shall be physically amended forthwith to make such insertion. In the particular, the Society shall, among other things, fully comply with:

- a. Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
- b. Affirmative action as required by the Labor Law.

14. Should any dispute arise between the Town and the Society regarding the manner or sufficiency of the performance of the services to be rendered hereunder, the disputed matter shall be settled by arbitration in the County of Broome, State of New York, in accordance with the laws of the State of New York. There shall be three arbitrators, one of whom shall be selected by each of the parties hereto, and the third by the two arbitrators so selected. If the selection of any arbitrator is not made within fifteen days of the time that either party has notified the other of the name of the arbitrator it has selected, then the arbitrator or arbitrators not selected shall be appointed in the manner provided by the laws of the State of New York. The work shall not be interrupted or delayed pending such decision.
15. The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town at a meeting thereof held on _____, 2022. The Town Supervisor of the Town, whose signature appears hereafter, is duly authorized and empowered to execute this Agreement and enter into such an agreement on behalf of the Town. The Society represents that the officer of the Society, whose signature appears hereinafter, is duly authorized and empowered to execute this Agreement and enter into such an agreement on behalf of the Society.
16. This Agreement shall be executed in duplicate. At least one copy shall be

INWITNESS WHEREOF, the Town of Binghamton has caused its corporate seal to be affixed hereto and these presents to be signed by its Supervisor, duly authorized to do so, and to be attested to by the Town Clerk of the Town of Binghamton, and the Society has caused its corporate seal to be affixed hereto and these presents to be signed by its Authorized Representative, the day and year first above written.

Town of Binghamton

Supervisor

Seal of the Town

Town Clerk

Broome County Humane Society & Relief Association

By: _____ Title: _____